



Against Trafficking and Exploitation

RENATE Mapping Exercise

Child Trafficking in Europe





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Religious in Europe Networking
Against Trafficking and Exploitation

Introduction to the RENAME Child Trafficking Mapping Survey.

This seven-country report on Child Trafficking, undertaken by RENAME is informed by:

- (i) material found in the TIP reports.
- (ii) information gained from a questionnaire specifically generated for this Mapping report, regarding protection of migrant children from Trafficking risk,

The process of undertaking a rapid desk review, undertaken with graduate academics from Western European countries, with qualification in politics, law or social sciences, in tandem with RENAME member field researchers, reveals the accessibility of information currently held by the States under review, along with key gaps in delivering safeguarding, protection and trafficking mitigation to young people at risk.

Globally the major IGOs and Internationally-focussed State reporting mechanisms from which information on Child Trafficking has been interrogated are several and not exhaustive. These include the US Trafficking in Persons Reports (TIP), the GRETA Reports, the UNODC biannual reports, UNICEF and IOM reports and more recently the voice of the UNHCR.

The US Trafficking in Persons (TIP) reports of 2016 and 2017, represent the latest annually assembled data from a mix of desk research, surveys distributed to NGOs in individual countries and updates from US embassy officials in their respective countries.

The United Nations Office on Drugs and Crime (UNODC), issues reports biannually and is the custodian for the implementation of the Palermo Protocol which is the controlling Protocol for the International definition of Human Trafficking. (announced as a supplementary protocol to the United Nations Convention Against Transnational Organised Crime 2000.¹) The focus of the UNODC report 2016 was on the plight of children within the multiple exploitative pathways of Trafficking, hence it informs a particular direction for some of the questions posed in the survey material for the seven countries in question – Albania, Hungary, Italy, Malta, Netherlands, Slovakia and Ukraine.

The Group of Experts on Action against Trafficking in Human Beings, (GRETA) undertakes a series of assessments each year, on those countries which have signed and ratified the Council of Europe Action against Trafficking in Human Beings.

The International Organisation for Migration (IOM) – has recently been more fully integrated into the United Nation portfolio of departments.² Founded in 1951, the IOM is now the leading inter-governmental organization in the field of migration and works closely with governmental, intergovernmental and non-governmental partners, for the humane management of people in migration.

¹ The other two, of the three protocols attached to the UNTOC 2000 pertain to the smuggling of persons and of drugs and armaments see https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THEREOF.pdf

²IOM is dedicated to promoting humane and orderly migration for the benefit of all. It does so by providing services and advice to governments and migrants. IOM works to help ensure the orderly and humane management of migration, to promote international cooperation on migration issues, to assist in the search for practical solutions to migration problems and to provide humanitarian assistance to migrants in need, including refugees and internally displaced people. IOM joined the UN System as the UN Migration Agency at the Summit for Refugees and Migrants in August 2016.

This Mapping exercise references three key reports which have recently been published in print and film by the IOM. We commend to readers independent exploration of these in order to gain a deeper understanding of the multiple challenges and hazards experienced by minors and youth in the current migration funnel accessing the European Union particularly through the Mediterranean routes.

Harrowing Journeys, *Fatal Journeys* and a *Deadly Journey* are important background reports to assist understanding of the dangerous journeys which young African men and women currently make into Italy from the 'informal beach ports' of Libya.³

UNICEF co-operated with the IOM to produce the joint report *Harrowing Journeys*, has also been busy in developing the evidence-base of what has been happening in the migratory dimension of Human Trafficking. The vulnerabilities of children exposed to migratory journeys, with or without their parents, has been included in this evidence-base. Their newest initiative responds to the challenging reality that of the fifty million children worldwide, - 28 million of them have been driven from their homes by conflict and millions more are migrating in the hope of finding a better, safer life. Some have freely undertaken such journeys. For others, their journey is part of a wider strategy for household economic stabilisation.

Each child encountering danger, detention, deprivation and discrimination is one too many.

News emerging from the countries bordering Myanmar shows over 350,000 Rohingya children are caught as refugees either with a parent, or alone. The risk of malnutrition is ever present. 12,000 more children join them each week, in squalid

³ Please see *Harrowing Journeys* : Children and Youth on the move across the Mediterranean Sea at risk of Trafficking and Exploitation. September 2017 IOM <https://www.iom.int/news/three-quarters-children-and-youth-face-abuse-exploitation-and-trafficking-mediterranean> accessed 30th September 2017

conditions in camps in Bangladesh where they lack sufficient food, clean water and health care to keep all alive.⁴ Twenty percent of children in these camps are under the age of five and are now acutely undernourished. In these conditions the United Nations Children's Fund (UNICEF) announces clearly '*A child is a child, no matter what. The world must keep standing up for these children.*' In their quest to stay alive and find a future out of squalor, the risk for many of these children is that they will simply add to the numbers who continue to move, entrapped through smuggling routes into illicit and deadly trafficking cycles of abuse.

UNICEF is now taking forward an Agenda for Action with a **six-point plan** to keep refugee and migrant children safe.⁵ The six-point plan is rooted in the Convention on the Rights of the Child which UNICEF is the UN guardian for and to which we shall be referring in more detail in this introduction.

The six points break down into the following key areas:

- Protection of uprooted children from exploitation and violence
- Ending the detention of refugee and migrant children by creating practical alternatives
- Keeping families together and give children legal status
- Helping uprooted children stay in school and stay healthy
- Pressing for action on the causes that uproot children from their homes
- Combatting xenophobia and discrimination

This attention to the importance of protecting multiple aspects of vulnerability of 'uprooted children' through focusing on these six points, is partly based on the research which was undertaken by the University of Harvard in 2015 *Emergency within an Emergency – the growing epidemic of Sexual Exploitation and abuse of*

⁴ <https://www.theguardian.com/world/2017/oct/20/300000-rohingya-refugee-children-outcast-and-desperate-says-unicef>

⁵ <https://www.unicef.org/emergencies/childrenonthemove/uprooted/>

migrant children in Greece. That research highlights the full extent of the vulnerability of migrant children to issues around securing safety, gaining access to alimentation, paying off the debts incurred through migration for themselves or even their wider family.⁶ The solutions arrived at, ranging from transactional sex, selling contraband goods (cigarettes, CDs and other items in a long catalogue of illicit goods sold through criminal gangs), begging or other risky activities, brings migrant children into the trafficking nexus.

The UNICEF Emergency and Crisis report of 2015, responding to the substantial movement of Syrian refugees across the Eastern Mediterranean into Greece, stated that key areas to be addressed by them and the countries where asylum was being claimed were:

*a number of issues (i.e. effective access to asylum procedures, return, family reunification etc.) to further inform advocacy, communication and engagement at country and regional level. As the refugee and migrant crisis in Europe has been fast-moving, fluid and unpredictable, UNICEF's communication approach (must remain) equally rapid and responsive in 2016, seizing the news cycle to highlight key messages on children. Communication efforts will keep an eye on longer term strategic objectives, such as counteracting growing negative sentiments against refugees and migrants.*⁷

Addressing these 'negative sentiments' and ensuring that asylum procedures, early protection measures, health checks and the provision of immediate safety alongside enabling family reunification, are some key aspects of the process of protection which needs to be clearly in place in order to reduce the risk of those children who are 'uprooted' for one reason or another and placed at risk of Human Trafficking.

This applies particularly to minors –present in the migration data, in greater numbers globally than have been counted since the Second World War. Not all minors at risk of trafficking who are 'in migration' across national borders. Human trafficking risk applies to children who never cross a single state boundary. The offence of trafficking is about:

⁶ *Emergency within an Emergency – the growing epidemic of Sexual Exploitation and abuse of migrant children in Greece* Francois-Xavier Bagnoud (FXB) Center for Health and Human Rights Harvard University 2015

⁷ *ibid*

- i) the Action of recruitment,
- ii) the Means of deception, or control, or force, and
- iii) the Purpose of exploitation.

The geographical determinants of these three aspects of Trafficking offences are in terms of the definition at least, irrelevant. The range is complex, entrepreneurially agile, and truly disturbing.

Harrowing and Fatal Journeys UNICEF and IOM

In May 2017 UNICEF reported that since 2010 there was a five-fold increase of unaccompanied refugee and migrant children. In its opinion, a global first in the total numbers on the move. 300,000 unaccompanied and separated children were recorded in some 80 countries in 2015-2016, an increase from 66,000 in 2010-2011. Not surprisingly some of these numbers have 'knocked on the door' of the borders of the seven countries under review in this report.

The two reports cited above, make uncomfortable reading, and put the challenge clearly in the European Union's court to respond at the least to the waves of child migration which is now accompanying the adult irregular migration. The latter has been building since the collapse of an ethically challenging and world-peace problematic North African 'stability' based on highly undemocratic and unaccountable dictators. The blighting of the *Arab Spring*, and the tribal furore which emerged in the unravelling of the Gadaffi regime in Libya under the duress of the United States of America with Anglo French co-operation, has resulted in the whole of the region undergoing seismic political and economic instability.

As UNICEF Deputy Director Justin Forsyth noted in response to the publication of the report *Harrowing Journeys* ⁸

*"Ruthless smugglers and traffickers are exploiting their vulnerability for personal gain, helping children to cross borders, only to sell them into slavery and forced prostitution. It is unconscionable that we are not adequately defending children from these predators."*⁹

⁸ Missing annotation re 'Harrowing Journeys' ?

⁹ <http://www.telegraph.co.uk/news/2017/05/17/unicef-300000-children-migrating-solo-nearly-fivefold/> accessed September 5th 2017

Minors in migration, whether accompanied or unaccompanied are at high risk of Human Trafficking entrapment. Our attention in this report is distributed across all the conditions of vulnerability which pertain to children, in their mother countries, in regional exploitation as well as the various circumstances in which they become subjected to trafficking exploitation far away from their native homes. This may be through 'accidentally' encountering opportunist trafficking networks, deploying their vulnerability through forced migration or through the subtle entrapments of internationally co-ordinated organised crime syndicates in their home countries. All of these circumstances of domestic, regional and international trafficking are considered in the survey elaborated in this report, and answered with varying degrees of accuracy.

It is clear that one of the enduring challenges in this domain of enquiry and response, are the gaps in data and information which is changing continually. This is something which has been indicated and regretted for a number of years by GRETA, UNODC, UNICEF, IOM, the United States State Department. Although data capture, disaggregated and granular information (Age, Ethnicity, Gender, Ability) is improving, it is still not quite where academics, researchers, practitioners and policy makers would like to see it. The less clear the data, the less clear the scale, dimensions and ubiquity of the challenge is and the areas which are now to be addressed.

Increasing numbers of unaccompanied children 14-17 are undertaking enormously risky journeys.

Migration routes across the Mediterranean



In the IOM, UNICEF report *Harrowing Journeys*, 11,000 migrants ages 14 to 24 and disaggregated by gender and by age, were surveyed. Youth (18 – 24) and Children (14 – 17). Data showing gendered, source country and age-related indicators of vulnerability emerged amongst those who were migrating as unaccompanied minors. Two-thirds of those who came through the Central Mediterranean route reported beatings, violence, and intimidation.

An adolescent boy travelling through the Central Mediterranean route through to Sicily via Libya from Sub Saharan Africa according to the data raised in these surveys faces a 73% risk of being exploited. This is far higher than if he had come from another region, some of which carry risk as 'low' as 38%. This risk percentage in itself would not bring any succour to a parent whose child faces this level of threat of violence, beatings, rape or other forms of intimidation. No source country carried zero risk. Any risk of beatings, procurement, violence, intimidation is unacceptable. Yet even in migration terms, it would appear skin colour makes a difference particularly with the data now rendered here on the North African route.

Harrowing Journeys' Executive Summary concludes that:

"the story that emerges from the data confirms the tragic reality that adolescents and youth are prepared to pay a high price for a chance at a better life. Those interviewed in the surveys are among millions on the move

worldwide, as recent decades have seen high levels of displacement, across borders and within countries. Many flee brutal conflicts of violence, whilst others move in search of prospects for better education and livelihoods.”¹⁰

These comprehensive 2017 reports – set the challenge within the UNHCR refugee numbers where it has recognised their status across the world, over half of whom are children, and whose numbers globally have risen sharply in the last five years - 59% from 10.4 million to 16.5 million. Together with those recognised by the UNRWA this builds to a figure of 22.5 million refugees with G20 [Argentina, Australia, Brazil, Canada, China, the European Union, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudia Arabia, South Africa, South Korea, Turkey, the United Kingdom and the United States of America] members hosting 6 million. That amounts to 27% of the world’s total and an increase of 2.4 million since 2010. The G20 countries have received more than 3.5 million formal asylum requests between 2015 and 2016, amounting to the highest numbers since the Second World War. Both sets of data, the global challenge, and the reception pressures now being perceived by G20 members are underlined globally by those seeking the protection of the UNHCR as they escape from civil war, persecution or the challenge of economic degradation in their own country to seek civil rights protection in another country. Turkey is currently hosting 3 million refugees from Syria., Lebanon and Jordan host more than 1.6 million Syrians.

Economic degradation and the search for a better life, is not by itself a qualifier for refugee protection, but is one of the clear drivers for migration. Furthermore the numbers of young people moving as part of family groups and as unaccompanied minors include those whose case for ‘the protection of the receiving state’ is hotly contested particularly by G20 countries. Thes countries feel at the sharp end of reception and integration requests, even though in the global context they are not the highest recipients of asylum requests, in terms of wider migration. Yet, the sense of being at the centre of the global migration vortex is underscored by some

¹⁰ Ibid.p6

of the data. In 2015 of the 244 million people living outside of their country of birth, more than half of these were living in G20 countries.

The linkages currently operating between refugee movements and global economic and ecological migration patterns, particularly in an environment where safe, secure and legitimate routes across borders are being closed is now a serious issue to be addressed. Clarity around refugee status, identification as 'child' subject to Trafficking, with all the attendant legal protection is putting intense pressure on receiving State resources. These include International monitoring bodies with Children's Rights, Child advocacy groups, that takes thousands of pro bono hours as well as state-supported legal aid for courts to determine. Safe routes are closing for legal access to countries where gainful employment might be found. Even international student places are now being threatened with restriction in many EU countries, including the UK in the shadow of Brexit.

And among the 2.6 million asylum applications received by EU countries in 2015 – 2016 roughly one third involved minors (780,000) with 550,000 of those aged below 14, with 20% of these young asylum seekers being considered as unaccompanied minors. Unaccompanied minors represented the majority of the oldest 61% of the 14-17-year olds applying for asylum. In the EU children tend to have higher recognition rates. The overall acceptance rates are close to 58% in 2016, but amongst children below the age of 14 the figure climbed to 62% and for those who were 14 – 17 years of age, it went up to 70%.

Distribution across the EU was extremely unequal with Germany receiving 40% of the new asylum applications in 2016. Meanwhile outside the EU on its Eastern Border Turkey has been absorbing significant numbers of Syrian refugees, which the EU seeks to retain outside its borders. Russia currently has the highest acceptance rates for asylum requests due to temporary asylum being given to Ukrainian nationals.

G20 other than those mentioned within the EU, have absorbed very few of the increased movement. Although the overall percentage of asylum applications as a percentage of the population was only 0.04% for the G20, this figure was four times the average figure experienced between 2005 – 2010. The EU has experienced overall, disproportionately distributed across their member states, a percentage of 0.21% percent of the EU's consolidated population in refugee applications in 2016 – a figure seven times that of the G20 in the same period.¹¹ In Europe the political sense has become clearly one which the rise in 'legitimate' refugee related migratory flows, is seen as problematic for internal political stability amongst the host society. Perhaps some of the challenge is the rate of increase which has occurred over the last five years.

In a recent report of the G20 which was presented by the OECD before the G20 summit in June 2017, the recommendation was put forward that with pending asylum cases standing at a record high of more than one million pending cases in the EU alone, the root cause of mass displacement 'during protracted crises' was explored, with the suggestion that the UN and the OECD should be looking at 'scaling up traditional resettlement programmes' and looking to make better use of existing complementary pathways for people in need of protection.

Meanwhile in a disturbing report released by IOM September 2017, the total number of recorded migrant deaths and disappearances accrued to more than 22,500, the majority being accounted for in the Central Mediterranean route through Libya and across the Mediterranean – over 15,000 since the beginning of the headlined 'crisis'. In this profoundly sad report, of lives lost whilst seeking asylum or a better life, or being smuggled or trafficked into Europe, large numbers of those losing their lives are from Sub Saharan Africa. If the proportion of those landing in Italy is a guide to percentage loss of life, then we have reason to believe

¹¹ G20 countries are Argentina, Australia, Brazil, Canada, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Korea, Turkey, United Kingdom, United States of America, China, South Africa Spain attends as a permanent guest.

the overall loss of lives is much, much greater as so many deaths are unaccounted for and undocumented.

The following map places the focus of harrowing and high risk journeys faced by those crossing the Mediterranean which has continued despite considerable efforts by NGOs and naval task forces to close down smuggling routes, and provide a rescue service at sea. In the first few months of 2017 alone over 2,250 migrants lost their lives on the southern seas or areas of Europe.

Map 1. Global migrant fatalities and disappearances worldwide, 1 January–30 June 2017



Source: IOM's Missing Migrants Project, 2017.

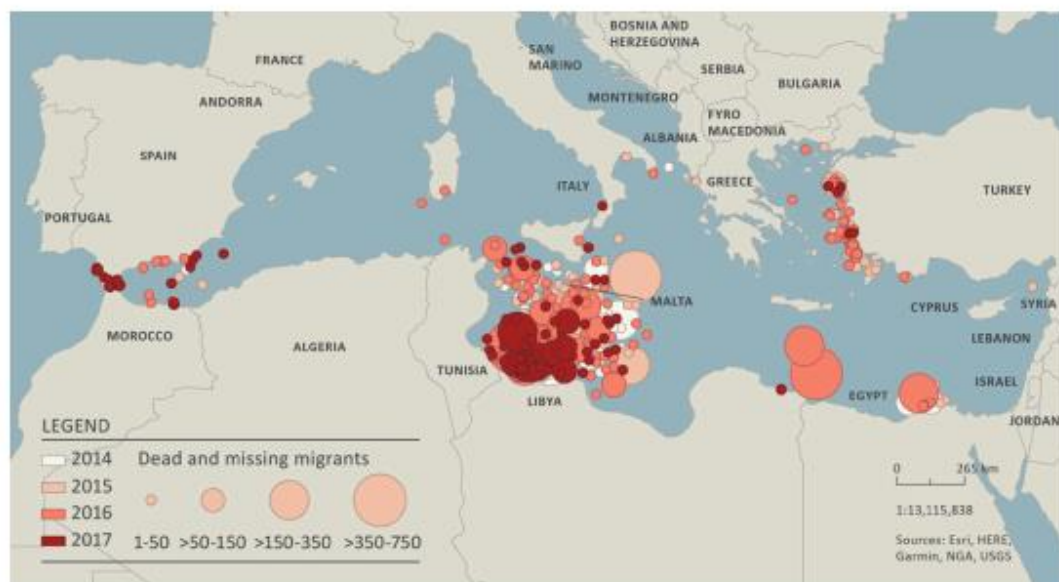
Note: Names and boundaries indicated on map do not imply official endorsement or acceptance by IOM.

The figures exclude the deaths which take place in refugee camps, migrant detention centres or during or after forced returnees. Furthermore, deaths not included are those which occur during the social and economic marginalisation of the labour market, as well as sexual exploitation instances of rape, miscarriages, abortions, and the high levels of violence ubiquitous in this aspect of exploitation with consequent ill health concomitant with hazardous journeys, in addition lack of access to health care, including maternal health and neo-natal care. The *Missing Migrants Project* calls attention to the world's politicians and policy makers to the clustering of disastrous routes from Tunisia and Libya which have been growing in intensity since the collapse of the Gaddafi regime.

Fatal Journeys.

Mediterranean

Map 2. Migrant fatalities and disappearances recorded in the Mediterranean, January 2014–June 2017



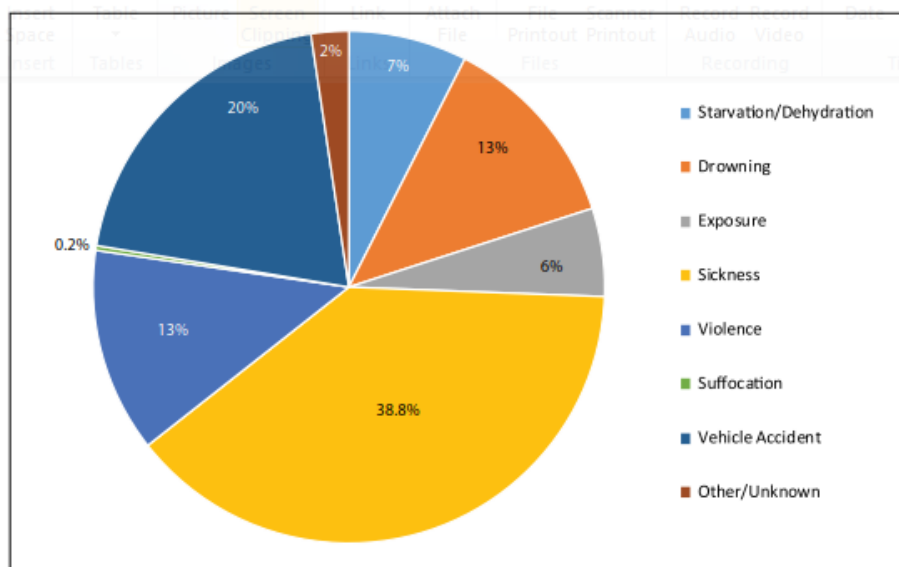
Source: IOM's Missing Migrants Project, 2017.

Note: Names and boundaries indicated on map do not imply official endorsement or acceptance by IOM.

In 2016, 1,380 deaths were recorded in North Africa, contrasted with 800 recorded in 2015 and 89 in 2014 – an increase related to the number of migrants from Eastern and Western Africa now funnelling through North Africa, and also in some part, to the presence of those who can now record deaths as they emerge along these routes. The data collection is by no means comprehensive, with the *Missing Migrants Project* relying in large part on media reports, accounts from IOM missions in the region and the ongoing work of surveying migrants.. Furthermore, according to the interviews undertaken for the supporting survey of this work, 22% of those questioned as to the number of deaths witnessed during their migration, simply reported 'many'. UNHCR considers that those who have travelled through Libya see more people dying in the desert than crossing the Mediterranean. The true human cost of this migratory drama has still yet to be counted. If the ratio of those lost on the Central Mediterranean, Niger, Libya route is calibrated by the percentages of

those who are arriving in Italy, then the loss of life amongst minors could be in the thousands. Remember in the midst of these particular figures globally one in eight migrants is a child.¹²

Figure 2. Reported causes of death in North Africa, 2016



Source: IOM's Missing Migrants Project, 2017.

Fatal Journeys

What is significant to note in the reports emanating from the seven participating countries is the continued pressure and presence of minors within the migratory flow into Europe through Italy. Internationally the distribution of unaccompanied minors counted by UNICEF, were 100,000 boys and girls at the US-Mexican border, and some 90,000 young migrants from the Horn of Africa who had been displaced either internally or across borders due to conflict in South Sudan and other regional instability.

170,000 unaccompanied minors according to UNICEF sought asylum in Europe between 2015 and 2016. Many of them survived the hazardous journey across the

¹²

Mediterranean into Italy, where a percentage which is yet to be fully calibrated have died.¹³ An estimated 4,579 people died crossing the Mediterranean, of which over 700, were children.¹⁴ Now pronounced by UNICEF as 'one of the deadliest journeys in the world for children', the UN body calls on Governments to create legal alternatives to mitigate its deadly cost in lives. The riskiest part of the route is a 1,000km journey from the southern border of Libya's desert to the coast, with a 500km sea passage awaiting. One in every 40 die in the attempt.

At the end of September 2016, an estimated 256,000 migrants were identified in Libya, of which 23,102 were children (just under 10%) and a third of that group were unaccompanied. The gross real numbers were estimated by the UNICEF report to be three times higher. That gives a potential figure of a further 70,000 children trapped in Libya awaiting their eventual movement North, as the smuggling routes gain financial traction in expelling minors for as little as 200 Euro for the journey.¹⁵ Of those making the Mediterranean journey in 2016, a total of 25,846 children survived the crossing, double the previous year's numbers. Any honest projection of numbers into the next five years would be advised to take account of the business model which is being set up. It means that returning an unaccompanied child from European soil is clearly challenging for immigration authorities that are held accountable by international and regional treaties. Furthermore, the fact that children are deemed to be on the lower price point of value and are used as 'ballast' in the inflatable boats being mustered on the shores of Libya 'when the moon is dark' appears to be undiminished.

All who are uprooted or or smuggled are discovering the regular migratory pathways barred as they make their ways across borders. Because of the closure of

¹³ IOM, U. A. 2017. A child is a child: Protecting children on the move from violence, abuse and exploitation

¹⁴ UNICEF 2017. A Deadly Journey for Children: The Central Mediterranean Migration route p2

¹⁵ Ibid.p2 Interview with minors by Report author October 2017 in Reception Centre in Palermo

safe paths for migration they are submitting their welfare, and future well-being into the hands of smugglers. This puts them at a high threshold of vulnerability and dependency. They become highly vulnerable to traffickers, armed groups and other forms of predation, and then find that the protection of the receiving state is found wanting.

The report from the seven countries - Albania, Hungary, Italy, the Netherlands, Slovakia, Malta and the Ukraine - in this report about how each is managing child trafficking vulnerability, protection and prosecution, find themselves in different locations with regard to their 'exposure' to international migratory flows, the influx of unaccompanied minors and uprooted families at their borders.

In late 2014 through to the autumn of 2015, Malta, Italy and Greece were exposed to a sharp, unexpected and sustained increase in arrivals by boat. They came from North Africa by sea and overland through the Baltic- seeking access to Europe. According to the UNHCR, 84 percent of over 800,000 people who reached Europe by sea between January and mid-November 2015 were from five countries: Syria, Afghanistan, Iraq, Eritrea, and Somalia. The push factors were myriad and clear. Human rights abuses and hardships which people were facing at home, were clear drivers for those on this first wave of migration.

As this route opened up, so also did smuggling networks and transport links from the Libyan Coast down through Niger into Sub Saharan Africa. Correspondingly, the complexion of those arriving on the boats – particularly on the Central Mediterranean- shifted to include substantial numbers of Gambians, Eritreans, Cote D'Ivorians and Nigerians, with substantial numbers of children in the mix.

In a recent survey undertaken by UNICEF comprising 82 women and 40 children taking the harrowing journey through Libya, the following appalling unsurprising information was distilled:

- Three quarters of the children interviewed reported that they had experienced violence, harassment or aggression at the hands of adults

- Nearly half of the women reported sexual violence or abuse during the journey
- Most children and women reported that relied on smugglers leaving many of them in debt and relying on a 'pay as you go' system which rendered them vulnerable to abuse, abduction and trafficking.
- Most of the children reported emotional or verbal abuse, and half suffered beating or other physical abuse.
- Girls had reported a higher incidence of abuse than boys.
- Although most of the married women represented (three quarters of those interviewed) brought one child with them, other children were left behind.
- Several of the forty children interviewed reported that they were hungry on their journey to Libya.
- Most of the children and women reported that they had spent extended periods working in Libya as the arranged payment for either the next leg of their journey into Europe or back to their home countries.¹⁶

This information captures the exhaustion, trauma, abuse and fear of the harrowing journeys undertaken by children with their families.,

Afshan Khan, UNICEF Regional Director and Special Coordinator for the Refugee and Migrant Crisis in Europe said:

*"50 million children are on the move, some fleeing violence, war, poverty and climate change. They shouldn't be forced to put their lives in the hands of traffickers. We need to address globally the drivers of migration and as importantly, put in place stronger measures to protect children on the move through a system of safe passage for all refugee and migrant children. If these were our children, alone and frightened we would act."*¹⁷

¹⁶ UNICEF 2017. A Deadly Journey for Children: The Central Mediterranean Migration route

¹⁷ UNICEF 2017. A Deadly Journey for Children: The Central Mediterranean Migration route p4

The European Dimension

In the second half of 2015, as Western Balkan countries largely allowed asylum seekers and migrants to transit freely towards EU countries, the situation at the Hungarian, Croatian, Slovenian, and Austrian borders deteriorated. Thousands of people were stranded at border crossings, sleeping outside in the cold and the rain. Families were sometimes separated in the chaos and children; youth and females were put at palpable risk of trafficking as well as wide violation of their rights to safety and international protection.¹⁸

Although the European Commission has allocated millions of Euro in humanitarian aid to Serbia, Croatia, Macedonia, and most recently Slovenia, through the EU Civil Protection Mechanism, to their disaster relief programme there are still many challenges remaining. In late 2015 a Human Rights Watch report noted that ‘the EU has earmarked €50 million in emergency funding to Austria, Bulgaria, Cyprus, France, Germany, Greece, Hungary, Italy, and the Netherlands through the Asylum, Migration, and Integration Fund. Despite common rules and standards, wide disparities exist among EU member states with respect to reception conditions, recognition rates, and integration measures. It is worth noting that the European Commission has launched 74 infringement proceedings this year against 23 of 28 member states for failure to implement correctly EU asylum laws’.¹⁹

The Dublin Regulation, which places primary responsibility for asylum applications on the first EU country of entry, is based on the mirage of harmonised standards and conditions. This regulation now in its third iteration, has imposed an unfair burden on the EU’s external borders countries such as Italy, Greece, the Balkans. It has failed largely to manage in an effective and reasonable way the onward movement of asylum seekers— which was the initiating and stated purpose of the system. All these dimensions of asylum management and the singular failure of the

¹⁸ Human Rights Watch The Refugee Crisis: an Agenda for Action 2015
<https://www.hrw.org/report/2015/11/16/europes-refugee-crisis/agenda-action>

¹⁹ *ibid*

European Union to share proportionally the 'illicit' migration flow across its member states, has its counterpart in Trafficking and Super Exploitation risks.

As our seven-country survey notes, countries across Europe find themselves in different geo-political arenas in this current migratory pattern experienced over the last five years. Albania is an outlier outside the European Union. As a Convention participant in the Council of Europe 'Action against Trafficking in Humans' and having begun the process of integrating the Palermo Protocol, Albania is becoming very much part of the wider discourse on Human Trafficking. The participating countries reference the vulnerability for 'home grown' minors. They acknowledge the challenges facing Greece and Italy as 'first responders' to the migratory routes coming through the Eastern Balkans, North Africa and Eurasia. Hungary and The Netherlands, France and Germany are seen as countries of secondary, migrant-initiated movement with instances of interstate reallocations occurring in certain circumstances.

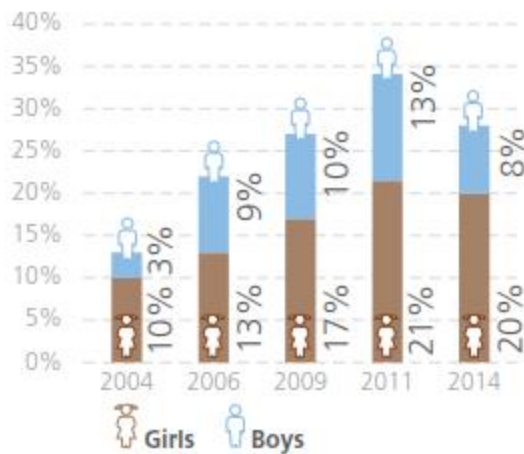
The UNODC report of 2016 noted children as a considerable portion of 'detected victims' in domestic, intraregional and international trafficking. , Our focus shifts from the risks of migration brought to attention by UNICEF, IOM, UNHCR to consider some of the other drivers into this form of super-exploitation which preys on young and old alike, but with potentially longer-term negative impact for children.

The UNODC 2016 'Children in focus'

In the 2016 UNODC report the share of children amongst those 'detected' from having been trafficked, as opposed to being present in the figures of those undertaking hazardous journeys in migration, were reported as a quarter of all detected 'victims'. The gendered -distribution of those being trafficked and detected was clearly weighted to females.

The following chart shows the persistent asymmetry in the detection of this 'hidden' crime towards female minors.

■ Share of children among detected victims of trafficking in persons, by gender, selected years

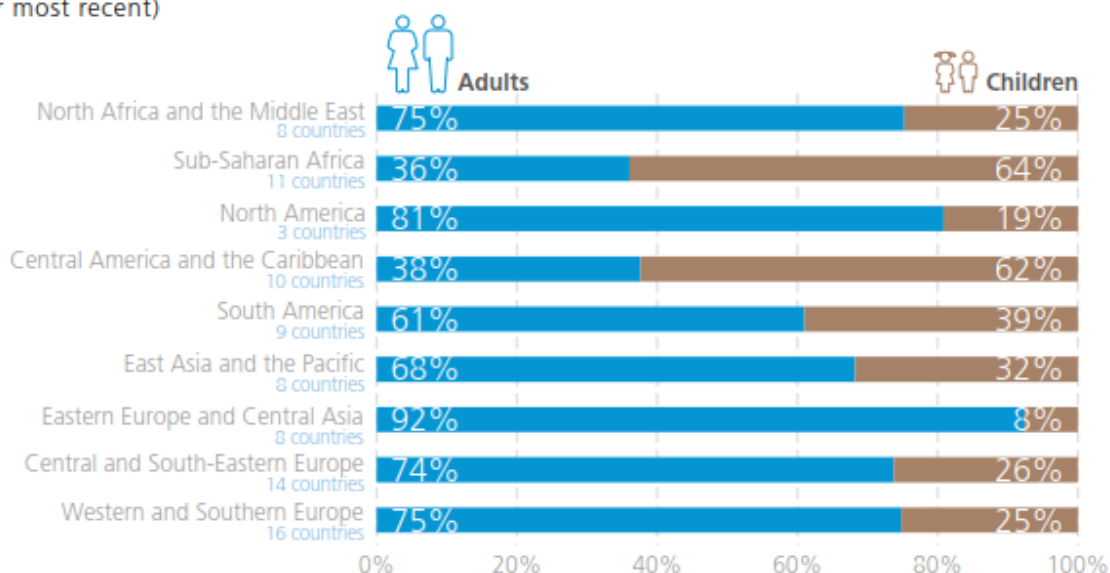


Source: UNODC elaboration of national data.

It needs to be borne in mind that these figures drew on statistics in 2014, and so there is a 3-year redundancy in this data. The profile from Southern Europe is likely to change in the light of the substantial levels of youth and child migration through the Central Mediterranean route a large number the unaccompanied are male. Furthermore, data is interrogated from a collecting source, it requires looking at the different age sets between children 3-13 / 14-17 and youth 18 – 24, as well as gender, alongside ethnicity, religion and sexuality to build a more nuanced understanding of what is happening.

Clearly there are regional differences with regards to the gender of detected child victims. The graph from 2014 shows the range of detection between the various regions with high percentages from Sub Saharan Africa against the total population of those trafficked regionally as children, though the disaggregation into young children and teenagers is not made in the report. Children as a percentage of those detected as trafficked in Western and Southern Europe are a quarter of all those detected, as against 64% and 62% in Sub Saharan Africa and Central America and the Caribbean.

■ Shares of adults and children among detected trafficking victims, by region, 2014 (or most recent)



Source: UNODC elaboration of national data.

The UNODC report is clear that there are linkages when International and Inter-regional trafficking occurs with the ‘broader migration phenomenon’ which is currently in train. Many trafficked persons find themselves exploited as they seek to access either a better life or move to places where they could claim asylum. They also encounter barriers to legitimate entry into a country. Some are not sufficiently informed as to how to undertake the process of asylum and find themselves embroiled with traffickers as they seek alternative routes to their destination in G20 or EU countries. Some find themselves fast-tracked to a negative decision from their Dublin point of entry, and subsequently find themselves on the wrong side of the ‘border of safety’, indebted to trafficking rings for their ‘safe passage’ onwards. With State processing backlogs rising across EU countries after the initial surge in numbers crossing into Europe through the Central and Eastern Mediterranean and Balkan routes, this risk has been signalled by a number of NGOs working in the sector.

However, as the UNODC report makes clear, the 136 countries from whom data is collected experience some level of domestic trafficking, a portion of regional

trafficking and a final element of international trafficking. With increased reporting protocols now in place from Western and Central Europe, more of what is occurring and what is required to address the challenges is coming available. Unsurprisingly the largest numbers of 'detected' victims are noted to enforcement authorities in Europe. This represents an ongoing challenge for nation states to put in order their capacity to both detect and pursue trafficking crimes, and then to have a secure and reliable way to record information pertaining to trafficking criminality.

Civil societies, law enforcement, state mechanisms and public sector agencies need to be aligned around the essential components of what constitutes trafficking. It is essential they are trained in the increasing diversity of this constantly expanding form of exploitation as new means of generating criminal business and finance from the super exploitation of labour which it represents. The capacity of States to respond effectively to the comprehensive human rights abuse human trafficking represents will simply not happen unless these essential requirements are observed. This applies to adult as well as to child trafficking.

One of the persistent challenges for the detection of child trafficking is that most trafficked children are unaware that they are recruited, harboured, transported or received for the purpose of exploitation. Furthermore, they lack information about safely reporting the trafficking nexus into which are embroiled, and because they are involved frequently in illegitimate and criminal activity during their journey either as domestic, intraregional or international subjects of this crime, may fear prosecution by the very authorities to secure their release, protection and recovery.

Unfortunately with some egregious prosecutions still being undertaken on minors who are detected and who have committed criminal acts whilst trafficked, the narratives which those who exploit minors tell them about the ferocity of the authorities is underpinned by profiled cases accessible through the media. Whether the certainty of 'refoulement' or the obligations of the child to his/her family, to make good whatever arrangement has been entered into with 'abusers' or simply misplaced attachment to exploiters – children whether refugees, smuggled

migrants, or vulnerable to exploitation because of a range of socio-economic and demographic reasons are the most vulnerable population to be addressed, and in every country a significant proportion of those trafficked.

The relation between forced Migration and Trafficking

The UNODC global report on Trafficking (2016) points out that the

*‘citizenships of detected victims of trafficking in persons broadly correspond to the citizenships of regular migrants that arrived during the same period’
Thus ‘it appears that the vulnerability to being trafficked is greater among refugees and migrants in large movements’²⁰*

This is an important connection which has now been recognised by the UN Member States in the New York declaration for refugees and migrants September 2016. This will start to inform the countries affected by refugee movements and forced socio-economic migration and the international agencies specifically mandated to respond to these populations.²¹

Fresh Initiatives for improved Protection The New York Declaration

This is an important Declaration which contains bold commitments to address the issues facing the international community in the steadily rising populations of both refugees and economic migrants caught between two worlds. It recognises that within this hinterland the risk of trafficking and super exploitation multiplies.

The Declaration is not yet widely known. Moreover its advisory requirements for vulnerable adults and children in migration are significant for the work which RENATE is seeking to promote. These include commitments to:

- Protect the human rights of all refugees and migrants, regardless of status. This includes the rights of women and girls and promoting their full, equal and meaningful participation in finding solutions.
- Ensure that all refugee and migrant children are receiving education within a few months of arrival.
- Prevent and respond to sexual and gender-based violence.
- Support those countries rescuing, receiving and hosting large numbers of refugees and migrants.

²⁰ UNODC 2016. Trafficking in Persons Report

²¹ <http://refugeesmigrants.un.org/declaration> Accessed September 5th 2017

- Work towards ending the practice of detaining children for the purposes of determining their migration status.
- Strongly condemn xenophobia against refugees and migrants and support a global campaign to counter it.
- Strengthen the positive contributions made by migrants to economic and social development in their host countries.
- Improve the delivery of humanitarian and development assistance to those countries most affected, including through innovative multilateral financial solutions, with the goal of closing all funding gaps.
- Implement a comprehensive refugee response, based on a new framework that sets out the responsibility of Member States, civil society partners and the UN system, whenever there is a large movement of refugees or a protracted refugee situation.
- Find new homes for all refugees identified by UNHCR as needing resettlement; and expand the opportunities for refugees to relocate to other countries through, for example, labour mobility or education schemes.
- Strengthen the global governance of migration by bringing the International Organization for Migration into the UN system

The Declaration also included plans to build on these commitments to

- Achieve a more equitable sharing of the burden and responsibility for hosting and supporting the world's refugees by adopting a global compact on refugees in 2018.
- Develop guidelines on how to treat migrants in vulnerable situations, with a particular eye on unaccompanied children on the move
- Start immediately the process of adopting a global compact safe, orderly and regular migration in 2018. It means that migration moves away from the ad hoc and the particular sympathies of Nation States as responders, into a situation where migration will be guided by an international set of common principles and approaches.

There is much to build on here, particularly the undertaking to mobilise resources to achieve a meaningful global compact in the coming year (2018). The experiences of the last three years of stepped-up pressure of migratory movement into Europe from the Middle East and Sub Saharan Africa via North Africa has prompted the Inter-Governmental Policy arm of the United Nations to revisit with urgency a

number of key areas pertaining to the 1951 Refugee Convention. The *Global Compact* is the outcome of this reconnection, particularly in relation to protecting and safeguarding children in migration, who are significantly vulnerable to exploitation.

The Global Compact 2018.

The Initiative for *Child Rights* in the *Global Compact* has been driven forward significantly by the CSO sector, with Save the Children, Terres Des Hommes, IOM, UNICEF sharing some of the work with the UNHCR. Together they have mobilised an international response to the New York Declaration for Refugees and Migrants. They are taking forward the six key areas of *Child Rights* within the NYD:

- 1) Non-discrimination
- 2) Best interests of the child
- 3) Child protection
- 4) Child immigration detention (the dismantling of this as a strategy)
- 5) Access to services for refugee and migrant children
- 6) Sustainable solutions in children's best interests²²

The *Compact* maintains that respecting the rights of all children should underpin the provisions in the *Global Compact* that affect children. It follows for the authors, that States should ensure children's rights be heard, and take into account gender-related issues, both in the context of actions and decisions affecting an individual refugee or migrant child as well as the broader context of adopting laws, policies and practices affecting children. One of the immediate outcomes of this call for enabling a child's best interests to be voiced, and gain some traction within the legal processes of the State is the appointment of Guardians – which will be seen to be an emerging trend across Europe and Internationally as the *Compact* and the NYD seep into the consciousness of CSOs and global legislatures.²³

The *Compact* bases itself on the structure of the Sustainable Development Goals' (SDGs) framework, adopted by the UN General Assembly in 2015. The SDGs framework is built around goals, targets and indicators, to suggest a process of purposeful endeavour. The *Compact* suggests that it is important to indicate

²² <http://www.childrenonthemove.org/>

²³ The appointment of Guardians will be noted in the contribution from Italy – where guardians are now being required to accompany all minors in migration – though these appointments are voluntary and there are concerns about how realistic multiple guardianship, or the appropriate separation of guardians from those centres where children are currently being hosted – cooperatives etc – is currently being managed.

changes at national and International levels. It has been set at the same end date as the SDGs in 2030, with some priority targets set at 2021. The SDGs which the working paper suggests are critically aligned to the wholesome progression of child welfare and protection for those who have been uprooted through migration are as follows:

Goal 10: Reduce inequality within and among countries with several of its targets including Target 10:7 to Facilitate Orderly, safe, regular and responsible migration and mobility of people including through the implementation of planned and well managed migration policies.

Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

Target 16:2 End abuse, exploitation, trafficking and all forms of violence against and torture of children and

Target 16:9 Achieve Universal legal identity and birth registration by 2030

Non Discrimination

The report *Child Rights in the Global Compact* points out that Refugee and migrant children risk discrimination across all aspects of their lives because being migrant children and refugees or asylum seekers from specific religious, ethnic or racial backgrounds make them more vulnerable. Besides being subjected to xenophobic attack, they frequently are criminalised – exploited, trafficked as a result of irregular entry or stay in a country. Alongside this they are frequently denied access to health, education, work, housing and other services. Migration status intersects with gender and disability linked vulnerabilities to compound the risk of discrimination related exploitation or violence, including in situations of sexual exploitation or trafficking.²⁴

Sustainable Development Goal 10:3, (UN 2030 Sustainable Development Goals) stresses the importance of equal opportunity. Elimination of any discriminatory laws, policies and practices currently in place in the receiving country of those seeking respite and shelter, and the promotion of appropriate legislation to support this change towards radical equality of opportunity to be enjoyed by all becomes part of an effective CSO or FBO mandate.

Of course, what is also very important, and a dimension which the six point plan for children announced by UNICEF in its #Actionforchildren, is that, this ‘equality of opportunity’ is to be **undertaken in all countries**. Paying attention to countries

²⁴ DOTTRIDGE, J. B. A. M. June 2017 Child Rights in the Global Compacts p7

from where migration is currently taking place, whether precipitated by war, natural disasters or economic pressures, is also a vital part of the socio-economic and political solutions being sought, and the place where Non -Discrimination is also vitally relevant. This is *more grist to the mill* of ensuring that activities which are being undertaken in recipient countries are matched by interventions, socio-political and economic innovation and 'disruption of corruption and underdevelopment' by all parties. These, after all, are the deeper systemic drivers which push families, households and unaccompanied minors to uproot and migrate, with hazardous journeys and uncertain futures ahead of them.

Best Interests of the Child

Consideration of the best interests of the child includes a substantive right, namely the right of the child to have his or her best interests assessed and taken into account as a primary consideration: this is a legal principle – namely that if a legal provision is open to more than one interpretation, the interpretation that serves the child's best interests most effectively should be chosen and in terms of procedure, that whenever a decision is made that will affect a specific child, group of children or children in general, the decision-making process must include an evaluation of the possible impact of that decision on the child concerned.

This particular approach privileges a child's health education and social protection needs, and according to the terms of the *Compact* the 'process needs to be initiated as soon as the refugee or migrant child is identified. This is to ensure that the child's best interests are a primary consideration throughout the migration cycle and will inform a sustainable solution for that child.'

Ensuring the effective participation of the child in actions and decisions affecting the child is essential at all stages of the process – child rights impact assessments, free legal advice and representation, guardians and advisors for unaccompanied or separated refugee and migrant children, development of dedicated budgets to support best interest assessments and determinations.

Child Protection

The immediate identification to the child protection system and referral of refugee and migrant children either unaccompanied or separated is critical in ensuring

assessment to immediate needs and protection against violence, sexploitation abuse and neglect. Identification procedures including age assessment should fully and at all times respect the rights of the child.

Screening, training, monitoring and compliance with safeguarding concerns is paramount. One of the primary obligations of child protection systems is to support family unity or reunification where this is in the child's best interests and to provide safe referral systems irrespective of his/her migration status to appropriate services information assistance and protection.²⁵

One of the areas in the intercesses and gaps noted in the surveys which are released across the seven countries in our dip sample of European challenges for the RENATE network to respond to, is the ability of countries to identify minors effectively and with resilience at ports of entry. Although there are a variety of metrics which are used by Frontex border checks and National bodies which seek to check the age of a person when 'minority' is in question – which include X Rays of wrists and of dental formation – this is now clearly recognised as requiring other means of assessment including psychological and paediatric disciplines represented on a panel, when documentation is absent or in doubt.²⁶ Authors of a significant study in the British Medical Bulletin published in 2012, point out 'attempts to assess age with X-ray scans of teeth or wrists are doomed to failure' with variations in age from 15 – 22 years of age being noted in both wrist formation and dental maturity.

*The best hope is in detailed assessments of physical and psychological development by specially trained paediatricians, skilled in combining different aspects of growth to make an informed estimate of age. It is crucial to chart a new way forward, he says: "Governments must stop believing that there is a 'scientific' test that will tell precisely the age of individuals claiming to be children but without papers to prove it."*²⁷

²⁵ Ibid.p13

²⁶ <https://www.newscientist.com/article/mg21428644-300-with-no-paper-trail-can-science-determine-age/>

²⁷ ibid

These procedures add to time and cost with assessment now including more personnel and the submission of formal reports in the absence of birth certificates and reliable passports. It is an area in which the EU is seeking to make progress in the coming years. Meanwhile with the principle of Child Protection in play, it is vital that the presumption of childhood is maintained wherever there is doubt in order not to contravene the Rights of the Child and to wrap around those in migration the security and protection of the International Treaties which can assist in the diminution of trafficking risks.

Child Immigration Detention

The *Global Compact* regards the detention of children incompatible with several of the Sustainable Development Goals and Targets, including Goal 16, which aims to promote peaceful and inclusive societies, sustainable development and provide access to justice for all; and Target 16:3 'Promote the rule of law at national and international levels and ensure equal access to justice for all.' The *Compact* considers that in the light of the above, immigration detention should be ended, whilst age assessments, appropriate child screening and identification should also be put in place appropriately in border systems. The report from the *Compact* advocacy group urges implementation of alternatives to detention for refugee and migrant children and families.²⁸

Access to Services

To develop and flourish, children of all ages need access to basic health, education and psychosocial services. To benefit from such services, their basic needs must be met, such as safe accommodation and adequate nutrition. It is clear however that a range of administrative and other obstacles stand in their way. When considering the situation of adolescents, the Committee on the *Rights of the Child* noted recently that:

Many adolescent migrants are denied access to education, housing, health, recreation, participation, protection and social security. Even where rights to

²⁸ Ibid.p16

services are protected by laws and policies, adolescents may face administrative and other obstacles in gaining access to such services, including: demands for identity documents or social security numbers; harmful and inaccurate age determination procedures; financial and linguistic barriers; and the risk that gaining access to services will result in detention or deportation.²⁹

The importance of birth registration, social protection and access to other services is vital to see in place internationally – regardless of migratory status. The Report notes that:

Despite commitments made by States (notably in the CRC), there are numerous reports of refugee and migrant children being subjected to sub-standard shelter that negatively impacts other rights, such as the right to education and the right to health. At present, facilities for housing refugees around the world are sometimes “dilapidated and overcrowded, providing inadequate shelter and services... Sometimes their inhabitants enjoy no basic services at all”.³⁰

Refugee and migrant children are particularly at risk to being exposed to health hazards as well as situations of violence, abuse or trafficked.

Sustainable solutions in the Child’s Best Interests.

Sustainable solutions in children’s best interests determine long-term arrangements for refugee and migrant children, including those unaccompanied or separated and are the subject of a decision concerning their future by the authorities in a foreign State. A range of options is available for accompanied or unaccompanied children. A fundamental principle is that the options should be tailored to suit the individual child and that the child, unless too young, should have a say in deciding which option is chosen. For some, the options are limited by international law (prohibiting, for example, refoulement).

²⁹ Committee on the Rights of the Child, General Comment No. 20 on the implementation of the rights of the child during adolescence, UN document CRC/C/GC/20 of 6 December 2016, para. 76.

UNICEF, A child is a child: Protecting children on the move from violence, abuse and exploitation, 2017.

³⁰ <http://www.childrenonthemove.org/wp-content/uploads/2017/02/Working-document-29-June-2017.pdf>

The long-term implications for an accompanied or unaccompanied child place on the competent authorities an obligation to conduct (and document) a best interests' determination. This will involve reviewing the options for the child and selecting a potential solution.

Where State authorities are looking at any minors who have been placed at risk of trafficking or who have been rescued from a trafficked scenario, this best Interests decision must include a comprehensive analysis of just what went wrong to place the child at risk. The State is required to provide ongoing protection and ensure development taking account of the other 6 safeguards of the *Compact*.

The *Global Compact* puts a great deal more pro-active emphasis at the heart of all actions and responses from either the Palermo Protocol or the Council of Europe Action Against Trafficking, and raises the game for all CSOs, FBOs, State and Non-State actors to intervene against trafficking in a comprehensive manner, with the best Interests of the affected and vulnerable children involved. This *Global Compact* will doubtless become the new Gold Standard to which counter child trafficking responses will be measured.

GRETA: refocussing the impact on Children.

The year before the NYD was announced in Manhattan, the 6th general review of GRETA's activities in 2016, the General Secretary set action against trafficking in children as the top priority for its upcoming work. This action was for immediate attention to all signature countries to the Action Plan.

The challenges of **refugee protection** noted across Europe, tied in for GRETA with the responsibility of all States to pay particular attention to child trafficking. All National child-protection institutions were called to ensure that the COE guidance monitor this phenomenon, using 'GRETA's country reports to better ensure **protection of children's rights**' taken forward by all signatories. A third priority was added to engage the attention of prevention and prosecuting authorities to the challenge of trafficking for the **purpose of organ removal**.

Furthermore, GRETA called for the importance of **‘non-punishment provision’** where victims are compelled to commit unlawful acts whilst being trafficked – an issue which is currently being worked through across State jurisdictions. It is yet to be entirely absorbed in the criminal justice systems in Europe.

The President of GRETA, Mr. Nicolas le Coz, reminded the readers of the 6th General Review that the accumulation of reports, guidance and the Council of Europe’s convention, constitute an ***Acquis***, an accumulated body of directives, regulations, decisions, judgments of the Court of Justice, advice and recommendations, which have been built on international and European agreements, and need to be referred to by all those setting up co-operation and technical-assistance programmes.³¹

It is in this spirit that we have included in each of the country reports which have been assembled, the notes, recommendations and priorities outlined by the GRETA report associated with the country under review. For those countries which we have not surveyed and reported on in this review, we commend the GRETA country reports as a good starting point for the specific challenges facing the country in question, and where particular value might be added by the CSO or FBO seeking partnership in terms of its compliance with a Convention which has a level of political and institutional thoroughness in its systemic approach to breaking the power of trafficking across Europe.

The Council of Europe Convention

It is instructive on occasion to return to the original articulation of Conventions and Protocols which have set the terms of engagement in the fight against Trafficking in Human Beings as it has been configured in the twenty first century. In the COE convention preamble, the reader is reminded of the Recommendations of the Committee of Ministers to the states of the Council of Europe in particular – pertaining to our focus on children:

³¹ GRETA 2017. GBR_6th General Report Greta's activities.

- Recommendation No. R (91) 11 on sexual exploitation, pornography and prostitution of , and trafficking in, children and young adults.
- Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation and
- Recommendation Rec (2001) 16 on the protection of children against sexual exploitation

Recommendations of the Parliamentary Assembly of the Council of Europe:

- Recommendation 1610 (2003) on migration connected with trafficking in women and prostitution;
- Recommendation 1611 (2003) on trafficking in organs in Europe
- Recommendation 1663 (2004) Domestic slavery: servitude, au pairs and mail order brides.
- European Union Council Framework Decision of 19th July 2002 on combatting trafficking in human beings
- The European Union Council Framework Decision of the standing of victims in criminal proceedings and
- The European Union Council Directive of 29th April 2004 on the residence permits issued to third country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

Taking note of:

- The United Nations Convention Against Transnational Organised Crime and the Protocol thereto to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children with a view to improving the protection which they afford and developing the standards established by them.

- Taking into account the need to prepare a comprehensive international legal instrument focusing on the human rights of victims of trafficking and setting up a specific monitoring mechanism

Agreed the following purposes of the Convention being:

1. To **Prevent** and combat trafficking in human beings, whilst guaranteeing gender equality
2. To **Protect** the human rights of the victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, while guaranteeing gender equality, as well as to ensure effective investigation and prosecution;
3. To **promote** international cooperation on action against trafficking in human beings.

Some of the important principles of the COE was the **Non- discrimination principle** which reminds member-States that the rights to enjoy all the measures *‘shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.’*

For the definition of child in the convention ‘Child’ shall mean any person under eighteen years of age (Article 4:d)

Trafficking is defined in accordance with the Palermo Protocol, Para a) as the ‘recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force, or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability for the purpose of exploitation. Exploitation shall include at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the removal of organs.’

Following the Palermo Protocol section (c) clarifies that

‘The recruitment, transportation, transfer, harbouring, or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in human beings’ even if this does not involve ANY OF THE MEANS set forth in paragraph (a).

So to be clear, **to prosecute successfully and identify trafficking of a child requires the following breach of her/his civil rights in being *recruited, transported, transferred, harboured, or received for the purpose of exploitation.***

This raises some issues to be further teased out. Quite what constitutes exploitation is one which then runs down other areas of Torte and Acquis. However with *no requirement to deal with any issues around the giving or withholding of consent*, the clarity around a requirement to protect the vulnerable against and prosecute those who undertake the multiple variations of Trafficking indicated in the convention, is now crystal clear.

In the light of these considerations there are mandates for action emerging from the Convention in relation to children which require States to undertake – and which we in our survey of the seven countries are paying due attention.

- That Appropriate disaggregated, gender, age, ethnicity, religious affiliation and nationality, data collection is gathered in all countries aligned to the Convention, in order for the appropriate monitoring of counter trafficking activities to be fulfilled.
- That the Human / Children’s rights informed approach is fundamental to all activities
- That children’s vulnerability must be reduced with a protective environment created around them
- That migratory movement which is seen to build in vulnerability, - particularly to children in migration- needs to be attended to by all affected parties. Border activity must be informed to adhere to not only the requirements of the Nation State to seek to keep the integrity of its borders, but to ensure that those who are vulnerable, or who go missing during the processes of screening and ‘transition’ are particularly catered for.

- That Demand for any trafficked dimension of exploitation is addressed
- That educational programmes are developed to inform and prepare vulnerable children to be able to reduce their risk of being trafficked and exploited
- That there is strong co-ordination of counter-trafficking efforts developed across European countries signed into the Convention, and that NGOs, CSOs and FBOs who are able to deliver further counter-trafficking resilience through addressing Protection, Prevention and developing effective internal and external Partnerships and National capacity to protect children at risk of being exploited.
- That 'Child' is identified categorically as being under 18 – and this requires that strong systems of age identification are in place.

All of the participating countries covered in our survey are members of the Council of Europe in a collegiate of now 47 States. Albania becoming the 35th member state in 1995.

Each one of the countries under review has GRETA reports published on how it is measuring up to the standards set by the Council of Europe Action against Trafficking. This will provide participating countries and the RENATE network with an ongoing measure of what is working well and what is in need of urgent attention. We make no apologies therefore, given the 'dip test' which the GRETA reviewers bring to their week-long concentrated task for extracting the latest GRETA reviews for each of the countries being surveyed – as one of the litmus tests on what is occurring. In the light of the New York Declaration, the UNODC highlighting the plight of children as a key point of concern, the ongoing reports from the Mediterranean by UNICEF and IOM and more immediately the Rohingya by *Save the Children* and the UNHCR, we can expect future GRETA recommendations will make it an urgent requirement to prioritise State protection. The CSO and FBO offer will be clearly mandated and *'The Rights of the Child'* will be a future area of attention

for all concerned in the wider struggle against global, national and regional trafficking in persons.

The Council of Europe provisions are of particular relevance for the countries under examination in our survey. The controlling international convention on refugee law is the Convention relating to the Status of Refugees (1951 Convention) and its 1967 Optional Protocol relating to the Status of Refugees (1967 Optional Protocol). The 1951 Convention establishes the definition of a refugee as well as the principle of non-refoulement and the rights afforded to those granted refugee status. Although the 1951 Convention definition remains the dominant definition, regional human rights treaties have since modified the definition of a refugee in response to displacement crises not covered by the 1951 Convention. Furthermore the UN Convention on the Rights of the Child (1990), clarified the definitions of 'Child' – anyone under 18 years of age- has further enriched the legal protection of migrant children. The four articles in the convention of special note in this conversation are the "General Principles" which help interpret all the other articles and play a fundamental role in realising all children's rights in the Convention.

Many of these elements are re-articulated in the New York Declaration and in the UN Rights of the Child General Principles, which have been widely publicised for almost the last three decades:

- Non-discrimination (article 2)
- The best interest of the child (article 3)
- The right to life survival and development (article 6)
- The right to be heard (article 12)

While some unaccompanied children are orphans, others are seeking to join relatives who have already reached contracting countries, availing themselves of Article 8 of the UN Convention on Human Rights, Article 10 in the Convention on the Rights of the child which points out that 'which provides that applications for family reunification should be dealt with "in a positive, humane and expeditious manner"

by States. However we see this Article is not being generously observed by States anxious lest children are being used as the ‘thin edge of the wedge’ of migration subverting the border restrictions which are now comprehensively emerging across Europe.

With regard to evidence of family relationships, the Strasbourg Court where the application of the European Convention on Human Rights (ECtHR) is decided when contested by States or plaintiffs, has recently held that State authorities are obliged to display a flexible approach in this matter, and that the ‘best interests of the child’ should be a guiding motif for State behaviours. It could well be that recent judgements by the Strasbourg Court which has begun to express some clear guidance to States that they need to attend to the wider context of human rights law when it comes to ‘family reunification, especially regarding refugees and beneficiaries of subsidiary protection.’ When this is the only viable way to reunite a foreigner with his or her family due to insurmountable obstacles hindering return to the country of origin, the state may be under an obligation to grant his or her children and spouse entry and residence on its territory.

Although the ECtHR still shows respect for state sovereignty in matters of immigration, its latest case-law suggests that the Strasbourg Court is seeking upward harmonisation of EU Law, and the protection of the rights of those in migration, particularly those claiming asylum. It is important in this instance to remember Article 14 of the European Convention on Human Rights which prohibits any form of discrimination. If a state grants certain category of persons a right to family reunification **under more favourable conditions than other categories**, there must be associated objective and reasonable grounds to justify this difference in treatment, otherwise the Strasbourg Court is available to insist that the offending State rectifies the challenge.

Although cases have been few in number, Human Rights-based lawyers see that for the current EU Strasbourg case-law has the potential to effectuate an *upward*

harmonisation in EU law. It could be that relatives believe that children " have a greater chance of being allowed to stay" than adult migrants, a perception floated by UNICEF as part of the explanation for some of the countries from where minors are now emerging into Italy.³² It is a difficult and increasingly highly politicised area of debate. The best interests of the child should be taken as the guide for all State and interstate interventions around the minor – and where the principles of how those Best Interests are to be decided, ensuring a child's voice, and independent well-informed Guardian's advocacy, we should see some clear improvements in what has been noted in the peripheral zones of Europe's borders. Much work remains to be done, and wherever these principles are not being appropriately financed and resourced with the training and political will required to effect them, trafficking subversion – as a way of securing both movement and attaining personal goals of those migrating however oppressive their outcome – will continue.

International laws are substantially in place and advisory notes and 'principles' proliferate. What is observable across different states is the lack of political will to implement these laws, when the 'well-being' of the voting populace is seen by a significant percentage of the electorate as 'under threat' from the outsider, the 'non-citizen' the 'non-entitled.' The Human Rights perspective emphasises the essential 'rights' which we all carry as those who have certain inalienable rights which our States are called upon to protect. Where a State violates these essential 'rights' other States step forward to protect these them. These essential Human Rights are not confined to national boundaries.

The three pillars of Catholic Social Teaching (CST)- Dignity, Solidarity, the Common good - have evolved specifically over the last two-hundred years and still have a contribution to make to a world we witness dramatic movements of people. Such

³² IOM, U. A. September 2017. Harrowing Journeys: Children and Youth on the Move across the Mediterranean Sea at risk of Trafficking and Exploitation

movements are an everyday reality changing countries impacted, but never completely relinquished.

Significantly CST has evolved in response to concrete questions and now includes as a *sign of the times*, great movements of people seeking economic freedom and opportunity from countries devastated by war and socio-economic devastation.

The first “social encyclical” of Pope Leo XIII, *Rerum Novarum* (1891), was a response to the 19th century industrial revolution and its disastrous effects on the lives of millions of workers. Here millions of economically ‘at risk’ people migrated from Southern Europe, from across the Balkans, Eastern and marginalised sub-regions of Western Europe to the (in Western perception alone) ‘free and uncivilised lands’ of the Americas, and Australasia. Leo XIII not only ‘upheld vigorously the dignity and rights of the working man [sic] but also defended strenuously those emigrants who sought to earn their living abroad’.³³ Furthermore Vatican II Council in the 1960s considered great movements of people as a *sign of the times*. How to address migration has expanded the breadth and depth of CST.

Increased attention on human dignity and immigrants’ rights has unquestionably made an impact on Catholic morality and on social and theological ethics in the years following the Second Vatican Council. Although globally the world faces a ‘crises of refugees and migrants’ with public acts recalling ancient patterns of bigotry, xenophobia, nationalism, and ethnocentrism, there is also renewed authoritative teaching from the Vatican and its pontifical councils, as well as from certain local conferences of bishops raising other alternatives. The magisterium, diocesan bishops, as well as Catholic theological and social ethicists and pastoralists have produced a significant, ever-growing body of reflection that spotlights concern for issues of human mobility. This reflection provides inspiration and guidance for laity, clergy and religious.

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As the Pastoral Theologian Allan Figueroa Deck, SJ remarked in the annual Lecture on International Migration entitled ‘Migrants and Refugees in Pope Francis’s Transformative Vision of Church and Society’

‘In these intervening years, (between the Second Vatican Council and now) the evolution of Catholic Social Teaching in the spirit of the Second Vatican Council has meant that a social morality stressing what the Catechism of the Catholic Church calls structural sin, the structural causes of injustice and the need for human solidarity across borders, has arisen in contradistinction to an individualistic morality fixated on personal sin.’³⁴

Now in the second decade of the third Millennium Pope Francis has overseen the call to the peripheries, the affirmation of care for “disposable people,” notable among them migrants and refugees – and those enslaved – the modern blight on the consciousness of humanity of Human Trafficking. This is a call which has been operationalised by a number of Catholic charities - Caritas International, Catholic Relief Services (CRS), Jesuit Refugee Services (JRS), along with RENATE and the wide range of religious congregations and partners captured in this body. All are seeking to make friends and alliances with those who can engage with their mission and create a broader vanguard against the systemic structural ‘sins’ by creating a zone of protection and welcome for those who suffer its impacts.

Pope Francis commented to journalists on his return Papal visit to South America in September 2017, by way of response to the ‘Real Politic’ of current migration flows into Italy and Greece. His comments refer to the reluctance of a predominantly Catholic country- Poland- to receive any of the 160,000 redistributed refugees whom the EU is seeking to ‘integrate’ and share the cost-burden between States across Europe.

Pope Francis was reported as having noted that whilst migrants should be welcomed and lives should be saved, governments must also manage immigration with the virtue of “prudence.” “You have to ask yourself first: How much space do I

³⁴ <http://cmsny.org/publications/tomasilecture2016/>

have? Second: You have to remember it's not just about taking them in, but also integrating them." noting that he felt "gratitude" toward Italy and Greece because they "opened their hearts to migrants." ³⁵

This report for RENATE now exemplifies the above challenges from the perspective of seven countries, six of which are now at some remove from the initial land-fall of Sicily or mainland Italy. Albania, Hungary, Italy, Malta, Slovakia, the Netherlands and Ukraine, are all responding to the step up in migration which is noted here in these reports and that of the UNHCR, and all experience at one dimension or another the impacts of child trafficking, domestically in their regional movements of population and internationally by means of trafficking intrusion. All have a particular stance on the reception or refusal of requests from the wider international community, mediated through the European Commission, or the UNHCR, or more directly by those in migration knocking at their doors with unaccompanied children or separated from their families, which by default is affecting trafficking risks on the children awaiting reception and integration.

Furthermore the wider 'systemic' challenges which shape the 'vulnerabilities' in which minors become entrapped in trafficking networks and exploitation, lurk in the geo-politics, domestic debates, and economics of all the countries in question. It is our hope that this ambitious piece of work, which has involved RENATE-members as 'field voices' in each of the countries concerned, shines something of a light on the availability of data to understand trafficking impacts and responses to minors vulnerable to exploitation in each country, and serves as a point of focus for actions on future purposeful activity to support improvements in each country's response.

As RENATE, we understand that our presence in this global nightmare is exceedingly small. Our numbers are few and many of our members are fully engaged with other arenas of work and activity. However, where lights are shone, and accountability is

³⁵ <https://www.politico.eu/article/pope-francis-migration-says-countries-must-be-prudent-on-migration/>

asked for, where global mandates are announced with pride and the vision for a 'better way' finds fresh allies, the best interests, improved safety, and sustainable futures for our world's children will find increased traction, and the mandate of John 1:5 to those who follow the way of Christ is in our small way fulfilled: *The light shines in the darkness, and the darkness can never extinguish it* . (John 1:5 International Version of the New Testament).

Convention of the rights of the Child.

Definition of the child (Article 1)

The Convention defines a 'child' as a person below the age of 18, unless the laws of a particular country set the legal age for adulthood younger. The Committee on the Rights of the Child, the monitoring body for the Convention, has encouraged States to review the age of majority if it is set below 18 and to increase the level of protection for all children under 18.

Non-discrimination (Article 2):

The Convention applies to all children whatever their race, religion or abilities; whatever they think or say, whatever their type of family. It doesn't matter where children live, what language they speak, what their parents do, be they boys or girls, their culture, disability, wealth or poverty. No child should be treated unfairly on any basis.

Best interests of the child (Article 3):

The best interests of children must be the primary concern in making decisions that may affect them. All adults should do what is best for children. When adults make decisions, they should think about how their decisions will affect children. This particularly applies to budget, policy and law makers.

Right to life, survival and development (Article 6):

Children have the right to live. Governments should ensure that children survive and develop healthily. Respect for the views of the child (Article 12): When adults are making decisions that affect children, children have the right to say what they think should happen and have their opinions taken into account. This does not mean that children can tell their parents what to do. This Convention encourages adults to listen to the opinions of children and involve them in decision-making but not give children authority over adults.

(Article 12) does not interfere with parents' right and responsibility to express their views on matters affecting their children. Moreover, the Convention recognises that

the level of a child's participation in decisions must be appropriate to the child's level of maturity.

Children's ability to form and express their opinions develops with age and most adults will naturally give the views of teenagers greater weight than those of a pre-school child whether in family, legal or administrative decisions.

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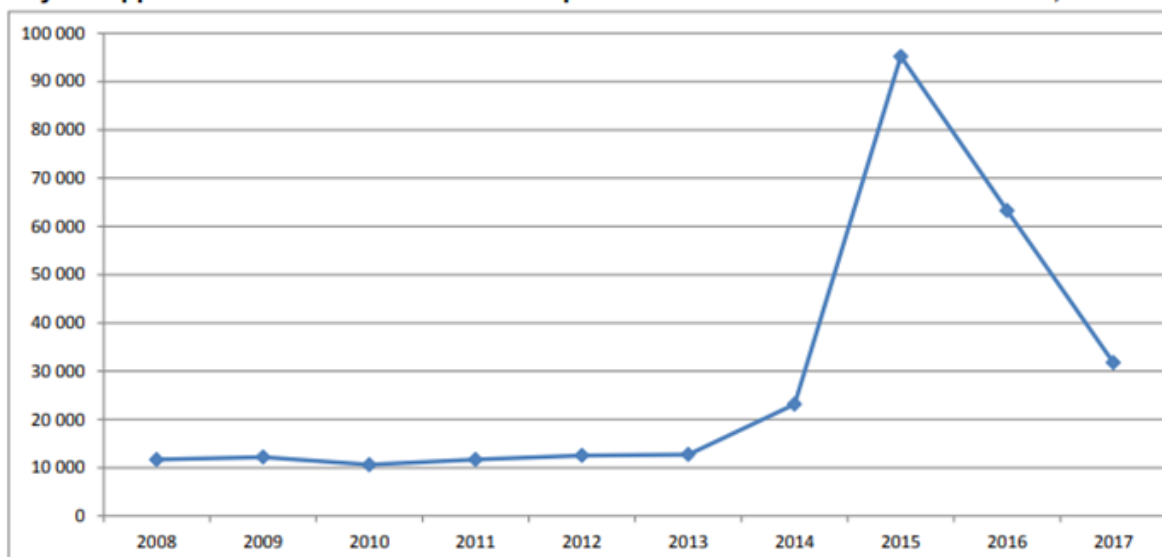
Executive Summary.

The importance of reporting Data.

It is clear that one of the enduring challenges in the third country migratory flows currently being experienced in Europe, is the place of minors placed in extreme vulnerability. Eurostat, which seeks to keep clear measures on the presence of unaccompanied minors across Europe produced the following powerful visual representation of the shifting numbers of this presence over the last decade. As can be seen from the graph below, (with Croatia excluded from 2008 – 2011), there was a massive spike in these numbers between 2013 and 2016. At the time of writing the rate of unaccompanied children present in the asylum systems of the member states, has yet to fully revert to those of the first decade of the third millennium.

This information is issued by Eurostat, the statistical office of the European Union.

Asylum applicants considered to be unaccompanied minors in the EU Member States*, 2008-2017



* excluding Croatia for the period 2008-2011

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³⁶ <https://ec.europa.eu/eurostat/documents/2995521/8895109/3-16052018-BP-EN.pdf/ec4cc3d7-c177-4944-964f-d85401e55ad9>

As to the future, there is no guarantee that there will be a 'business as normal' rate to be resumed, unless significant further controls in movement outside Europe's immediate borders are initiated. The form that decision takes will be set by the curious mix of democratic instruments, with the deployment of voting populations in plebiscite and parliamentary elections, co-ordinated through the matrix of economic, political and state security informed strategic discussions currently taking place in amongst other cities, Brussels, Luxembourg, Lille and Geneva. This is the real-politic, the geo-political environment in which this study is set, and a lens through which the following seven country reports, (all except two being members of the European Union), should be read and considered. Nothing by way of numbers is certain. That Unaccompanied Minors will be a clear presence in Europe's inward and internal migratory flows, is however the reality. And for that as European citizens seeking to ensure the safety of children, whatever their origin, in our midst, we need to understand what is happening to them, and for that we require clarity and transparency of information and data. This is the quest of this report.

The wider context – the geo-political seismic shocks being experienced by populations outside of Europe, have always to be taken into consideration when looking at Asylum figures, into which pool unaccompanied and accompanied children are captured. In the past five years the world has seen a catastrophic collapse of Syria with the rupture of its cities and settled population, long standing violence and destabilisation in Afghanistan, and the melt down of Libya with an accompanying collapse of the State by the deconstruction of the Gaddafi regime by NATO alliance forces. Such destabilising unrest has resulted in movements of population unprecedented since the second global war of 1939 – 45. As a result, we are now seeing the presence of open slave-markets and forms of torture meted out on those trapped in Northern migration passing through ancient North African migratory routes.

Between the commissioning of this study in 2016 and its final publication this autumn of 2018, we have seen a step change down of unaccompanied children seeking asylum in the EU, from the peak of 2014 – 2015 when this study was originally pitched. This is part of the instability in migratory patterns which we foresee in the coming years affecting Europe, as she sits in the interface between ecological, political, and economic forces folding up swathes of population who are forced into life threatening movement away from their former homes, social protection networks and livelihoods.

In 2017, 31 400 asylum seekers applied for international protection in the Member States of the European Union (EU) were considered to be unaccompanied minors. This was near enough half the number which had been recorded in 2016 (63 200

unaccompanied minors registered) and almost one-third of the peak registered in 2015 (95 200). However the figure was still over two and a half times higher than the annual average during the period 2008-2013 which was around 12 000 per year. In total in the EU, unaccompanied minors accounted for 15% of all asylum applicants aged less than 18. The gendered nature of this migration without families is very clear. In 2017, a majority (89%) of unaccompanied minors seeking asylum were males. Over two-thirds were aged 16 to 17 (77%, or about 24 200 persons), while those aged 14 to 15 accounted for 16% (around 5 000 persons) and those aged less than 14 for 6% (almost 2 000 persons). The country which was a dominant source of these unaccompanied minors was Afghanistan at 17%, or around 5 300 persons.

The majority of the unaccompanied minors have been male, though the percentages shift in age segmentation – 16 – 18, 12 – 16, 4-12, some babes in others' arms. And to compound the complexity and the risks in managing these highly vulnerable populations are the gaps in data and information. This is something which has been indicated and regretted in public for a number of years by GRETA, UNODC, UNICEF, IOM, the United States State Department and the European Commission. Although data capture, disaggregated and granular information (Age, Ethnicity, Gender, Ability) is improving, it is still not quite where academics, researchers, practitioners and policy makers would like to see it. The less clear the data, the less clear the scale, dimensions and ubiquity of the challenge is and the areas which are now to be addressed. Where there is a lack of clarity, appropriate planning for resources to address the gaps in care and protection is seriously undermined.

Nearly a decade ago the European Commission outlined the requirement for Europe to establish clearly the rights of the child across its member states. This initiative was the Stockholm Programme and endorsed by the European Parliament on 10 – 11 December 2009. Amongst other items, the Stockholm Programme sought to 'examine practical measures to facilitate the return of the high number of unaccompanied minors that do not require international protection'. This was a clear call from European member states that they were not at ease with the rising numbers of unaccompanied minors finding their way either through the borders of the EU perimeter states, or being rescued from the waters of the Mediterranean and the Aegean seas, and directly inserted into the asylum and protection system of States where port entry had been granted, even at numbers under 10,000 per annum. At the same time it was also a call for an 'integrated approach' in which the rights of the child should be protected in a uniform manner across the member states.

Between 2009 and 2018 much has changed. We have a different political hue in the chambers of the European Parliament. In 2009 the call from the EU commission was that any EU Action Plan should address issues such as ‘protection and the generation of durable solutions’ placing at its heart, not the predilections of its voting populations, but the ‘best interests of the child’ in co-operation with third countries of either birth or previous domicile.

Although the EU has devolved many of the de facto issues of migration control from third countries into Member States’ hands, their freedom of action is much more constrained in relation to unaccompanied minors. The standard of the United Nations Convention on the Rights of the Child, (UNCRC) has been placed firmly at the centre of any action concerning unaccompanied minors by the European Commission for well over two decades. This is a critically important reality, when looking at the way in which children and unaccompanied minors are managed across the different systems, protocols and locations of the 28 member States.

We need to remind ourselves and our wider communities, as Religious congregations committed to respond to the challenges of Human Trafficking, of our signed up standards and European Commission stamped duties. This public memory, and announcement of our base line of action and response, is important in an environment of what many see as a diminishing of compassion and protection around those in migration, and the most vulnerable of these, the minors. The single point of common reference for all the Member States is the United Nations Convention on the Rights of the Child (UNCRC). Keeping this in mind as you read the data, note the gaps, and review the reported activity of the seven countries under examination is vitally important.³⁷ It is not a matter of private opinion, or subject – at least presently to overhaul by the will of plebiscites. European law insists on the universal application of the UNCRC as the template of activity. This is crucial for keeping a critical dimension in our review, for any failure in this regard is not a matter of partisan opinion, but of a dereliction of EU protocols and requirements.

The EU legislative and financial instruments on asylum, immigration and trafficking in human beings, operational across Europe, directly or indirectly address the specific situation of unaccompanied minors and there is within this provision for enforced protection of Unaccompanied Minors’ rights.

This repeated call for a common EU approach in 2009, at one level should have meant that this current mapping exercise, with researchers gathered from the RENATE congregations in field and desk researchers managed by CCARHT, was a relatively simple exercise. It turned out not to be as straightforward as first envisaged. The quest to access information which should have been sitting proudly

³⁷ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Action Plan on Unaccompanied Minors (2010 – 2014) SEC(2010)534

in the public domain, was frequently unnecessarily complex. For some of our country researchers, the quest required perseverance and not a little imagination to unlock. The process shed a light on how much more political will for transparency and release of resources to gather the appropriate data, is required across our democracies to bring us to a place where how we deal with migration, protect rights, and ensure as much social protection against human trafficking violation is standardly in place. Everywhere. It is vital that public scrutiny can be exercised by civil society and that those mandated in the public sector to audit 'the migration patterns, children's rights compliance, and outcomes' for the dozens of thousands of unaccompanied migrant children across the EU member states, are able to do so without obfuscation, or data being unavailable. This is why this report, and mapping processes like this are essential to validate our democracies, and the societies which we are members as places aligned with our core professions.

The question of Third country migration over the last decade has become deeply politicised, and fissures across the 28 member states opened up publicly at the EU summit recently held in June 2018 over the way in which asylum seekers are processed. The Dublin Regulation (now in its third iteration) which first came into force in 1997, sets out a common framework for member states, determining which country in the European Union decides an asylum seeker's application, and ensures that only one member state processes each asylum application, thereby cutting out bureaucratic costs and redundancy.

However, many refugee advocacy groups argue that this system can in itself generate a great deal of inequality across the asylum system. Italy, Greece, Spain, Malta and Hungary protest that because they are in the Southern and Eastern pathway of this last two decades migratory pathways through North Africa, Turkey and the Balkans there is a profound inequality in the spread of impact for member states. Around the 2018 summit there were background briefings given, testing the waters for political tolerance of creating external screening and processing centres in Libya, Niger, Tunisia, Morocco, and Egypt. NGOs and Human Rights advocacy groups protested that all five of these proposed countries struggle with their national compliance to comprehensive Human Rights protection for their own citizens, let alone managing the safeguarding and protection required for those seeking refuge and asylum. This proposal will in the view of many in the NGO sector, be one which wins favour of member states in order to lance the sting of right wing political movements emerging on 'Fortress Europe's' borders, galvanising reflex energy amongst populations anxious around rates of inward migration, ethnic churn, the undercurrents of 'terror threats' and the fiscal costs of managing levels of inward migration from third countries. Similar facilities are also under consideration for Albania.

As people seek to access countries further inland from Europe's Southern and Eastern borders, to the vibrant economies of Germany, the Netherlands, France and the UK, evading the control of State authorities, with falsified passports, and costly subterfuge, families can become separated. Smugglers colluding with human trafficking rings are engaged to assist individual family members in their attempts to move across Europe, and entrapment into long term debt bondage, ensues. Libya, Niger, Tunisia, Morocco, Egypt, while similar facilities are being considered for Albania. The human trafficking element can begin at the very gates of Europe itself, and unaccompanied children, or children left with only one parent to care for them in a situation of massive uncertainty can be a part of this game of lives, seeking to access best options, or family re-assembly.

The following studies therefore need reading with care. Where there are gaps in the data, there lies a gap in resourcing or in transparency or in effective dissemination. This data on situation of unaccompanied minors, and the 'asylum' estate, the European Commission called to be assembled a decade ago. Clarity, transparency, accountability. These are the three pillars which assist the appropriate planning for States to fulfil their duties to the UN Convention of the Rights of the Child (UNCRC). All depends on the careful and accurate recording and assembly of data. Without this approach by all member States, no common EU policy which is going to be compliant with numerous conventions which have been ratified by the Commission or resolutions passed through the Brussels parliaments can have the teeth they require.

This then is the spirit of compliance, of the UNCRC, of the New York convention of pursuing the Best Interests of the Child, and of the higher values and recommendations asserted in the outcome of arduous and painstaking research from Daphne funded research into the plight of unaccompanied minors and seeking to develop minimum standards taken forward by the EUROFOR - Network for the protection of unaccompanied minor migrants, which are to be applied in every Member State.³⁸

Twenty years on, the division of welfare and risk of trafficking is sharper than ever. The research undertaken by the EU in 1999 showed that, in general, two groups of unaccompanied minor migrants existed in three countries under review. For the purposes of the RENATE study it is significant that these differences noted then in a three-country study continue today in the seven under review in 2016 – 2018.

First, there is the group of minors who apply for asylum or who used other legal ways of entry in order to consolidate their residency status. With the option of family reunion being deployed for this group of migrants minors, there are quite

³⁸ Project Reference Number: Daphne Fund European Union
1999-146-C Unaccompanied minor migrants - Development of protection mechanism

extensive networks of protection and help which exists in most of the countries studied although because of the rise in volume in requests there has been a slowing down in the efficiency with which these requests are handled.

However, there are then thousands of minors who are caught across the countries which our study surveys, with extremely limited protection. This second group is unaccompanied migrants who, in fear of rejection, cross the border illegally or who, in fear of getting deported, go underground, utilising the services of smugglers and becoming easy targets for recruitment by Human Traffickers, who can be perceived by them as their opportunity to access what they have struggled to attain. The research showed in 1999 that, in general, two groups of unaccompanied minor migrants exist in all the countries studied:

'First, the group of minors who apply for asylum or who use other legal ways of entry in order to consolidate their residency status. For this group of migrants, quite extensive networks of protection and help exist in all the three countries studied.

*On the other hand, numerous minors are almost without protection at all: this second group is unaccompanied migrants who, in fear of rejection, cross the border illegally or who, in fear of getting deported, go underground. Since access to social support in all the countries depends on the legal status of residency, these minors are not supported by governmental institutions. Although there is a lack of information on their strategies of survival, it has to be assumed that they are highly exposed to dangerous situations.'*³⁹

In summary it can be stated that in none of the countries studied were the measures of protection, comprehensively adequate to the special needs of unaccompanied minor migrants. There are occasions recorded in these reports where considerations contained in legislation relating to migration/alien status appear to overrule the measures foreseen by the respective child and youth welfare laws. Political pressure arising from the current 'swing to the right' and a reassertion of nationalism have become apparent across Europe and surfaced in every ballot box over the last five years. Because access to social support in all of the countries we have surveyed depends on the legal status of residency, minors continue to risk falling in the cracks of protection and support by governmental institutions. There is a general lack of information on their strategies of survival, and where there is a failure to provide for these minors, it should be assumed that they are highly exposed to dangerous situations.

There is the full range of compliance and non-compliance across the gamut of requirements which has been spelt out by the European Commission and embedded

³⁹ Project Reference Number: Daphne Fund European Union
1999-146-C Unaccompanied minor migrants - Development of protection mechanism

in the UN Convention on the Rights of the Child, in the countries studied. Readers will become aware reading some of these country reports, that some measures of protection 'adequate to the special needs of unaccompanied minor migrants' are worryingly absent. Some countries' programmes are undermined by conflicting political messages, which has seen legislation or enforcement practices relating to migration/alien status overrule the measures which should be guaranteed for minors irrespective of their origin. In others the necessary financial resources to deliver successful and coherent programmes are not available.

We are aware that there should be a common approach on unaccompanied migrant minors, and all minors in migration, based on the respect for the rights of the child as set out in the EU Charter of Fundamental Rights and the UNCRC, in particular the principle of 'the best interests of the child' which now rises as the primary consideration in all action related to children taken by public authorities in the EU's own manifest.

It is a prime facie truth, that any child needing protection should receive it and that, regardless of their immigration status, citizenship or background, all children are treated as children first and foremost. This is why this data mapping which has been undertaken by RENATE both through desk surveying, and on the ground, enquiry is vital for the spiritual and moral health of Europe as well as the welfare of the children in focus. It is no good stating one thing in European Parliamentary declarations, or through Commission proceedings in Brussels and Luxembourg, and then member States failing to follow through on the ground, and with impunity. The EU has stated time and again that there should be solidarity and sharing of responsibilities between Member States and with the countries of origin and transit, as well as enhanced cooperation with expert civil society organisations and international organisations. This mapping exercise is a part of such civil society co-operation. In paying attention to how data is recorded, and how unaccompanied minors, some of the most vulnerable members of EU society, are being taken care of in six EU member states, and in one eager future entrant (Albania), RENATE has played an important role in holding a light into the shadows, to see how we are doing with 'the least of these my brethren' Matthew 25:40 KJV.



Religious in Europe Networking
Against Trafficking and Exploitation

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RENATE- CHILD TRAFFICKING Mapping Survey.

Country profiles.

Albania.

Hungary.

Italy.

Malta.

Slovakia.

The Netherlands.

The Ukraine.



Albania

Prepared by Rev Dr Carrie Pemberton Ford, Nadine Schemperle and Erion Prendi.

Country Overview

Albania is one of the smallest countries under analysis in our seven country review, but one which has been undergoing a remarkable economic transformation since the 1990s. With a population of only 2.9 million, [it has a] with a Gross Domestic Product of US\$ 11.9 billion, a per capita production at a sluggish 4,078, a Poverty rate (less than \$5/day) (2016) standing at 33.9 but with a substantial life expectancy at birth, of 77.8 years (non gender disaggregated (as of 2014) ⁴⁰41. It is a unitary parliamentary constitutional republic with the capital in Tirana, the country's most populous city and main economic and commercial centre. The country's other major cities include Durrës, Vlorë, Sarandë, Shkodër, Berat, Korçë, Gjirokastër and Fier.

The global financial crisis of 2008 however exposed the weakness of Albania's growth model, and highlighted the need to shift from consumption-fueled economic growth to investment- and export-led growth. Economically the country's main challenges are seen by the World Bank to be in maintaining its macro-fiscal and financial sector sustainability, improving the inward investment climate and promoting sustained, transparent and uncriminalised private sector growth, removing barriers to employment for job creation, enhancing its performance across the educational and knowledge acquisition economy and improving governance and public service delivery.

Looked at from the Human Trafficking vector, and from the perspective of the United Kingdom where this piece is being written, Albania features as one of the highest generator of trafficking victims in the UK – with seven hundred and seventy seven referrals into the UK's National Referral Mechanism in 2017, of which 210 were minors, 141 of whom were found in some form of labour exploitation, and only 28 of

⁴⁰ www.worldbank.org/albania At a Glance

the minors were reported in sexual exploitation.⁴² These are numbers are concerning if put across other European countries where it is known that Albanian victims are transported, Greece, Italy and Germany – the data which is available from Albania itself on its processes around safe housing allocation of places for victims of trafficking, and the low prosecution rates which have been provided in country over the last decade..

Albania lies in the southwestern portion of the Balkan Peninsula, is bordered by Montenegro to the northwest, Kosovo to the northeast, the Republic of Macedonia to the east, and Greece to the south and southeast. These countries serve as the most immediate destinations of cross-border trafficking though those with more buoyant economies are the ones most likely to be accessed. Most of the country is mountainous, with the Albanian Alps in the north, the Korab Mountains in the east, the Ceraunian Mountains in the south and the Skanderbeg Mountains in the center. Significantly it is less than 72 km (45 mi) from Italy across the Strait of Otranto, which connects the Adriatic to the Ionian, and where another key cross-border trafficking route exists, with children and adults being trafficked for labour, drugs, criminality and sexual exploitation. The country's coast touches the Adriatic Sea to the west and the Ionian Sea to the southwest that forms the Albanian Riviera which has a great deal of potential for development in the tourist industry, if the country can address its challenges around corruption and adverse statistics on criminality.

For the first time in the history of population censuses in Albania, in 2017 the population in urban areas (53.7%) became larger than the population of its rural areas (46.3%). This rural drift to the cities, is mirrored with the internal movement of those caught in trafficking – particularly those in on-street criminality and in sex trafficking. Whilst Albanian is the official language, minority languages are officially used in some local government units. Albanian is declared as the native language by 98.76% of the population, however the Albanian people are considered the most polyglot nation and people in Europe. Generally speaking more than two languages, a choice between French, Greek, Italian, and English, heard on the streets of its cities is due to migration return, and the arrival of new Greek and Italian communities in the country. The main religions of Albania are Islam (58.79%), Roman Catholicism (10.02), Eastern Orthodoxy (6.75%). . Although ethnically singular with over 98% Albanian, it has three national minorities – Macedonian, Greeks and Montenegrins, with two cultural minorities, Aromonians and Roma. These cultural minorities find themselves represented assymmetrically represented in ad hominem trafficking data – and the EU

⁴² NCA NRM statistics for the four quarters of 2017

<http://www.nationalcrimeagency.gov.uk/publications/national-referral-mechanism-statistics/2017-nrm-statistics>

The challenge of Gender based violence in country.

The Albanian Women Empowerment Network (AWEN), a network of eight organisations with the aim of supporting, protecting and promoting the rights and interests of women and girls, in a published a report December 2016, described domestic abuse in Albania as *'...particularly sensitive as this is a widespread phenomenon taking on a variety of forms with alarming damages not only for women victims of violence but also children.'*⁴⁴ Another report published through the European Asylum Support Office stated that *'Domestic violence affects women depending on their education and age, kind of work and marital status. Perpetrators are often direct family members or partners.'*⁴⁵ Finally in April 2017, the Albania Helsinki Committee reported, *'Domestic violence ... remains disturbing in terms of its spread in society. Women, children, the elderly or marginalised groups are the most frequent victims of this phenomenon. The use of violence toward women still appears very disturbing, with some cases leading to the death of the victim as a result.'*⁴⁶

The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) an independent human rights monitoring body mandated to monitor the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence published a baseline evaluation of Albania in relation to violence against women in November 2017. Significantly the report stated: *'Public opinion in Albania lacks a gendered understanding of violence against women and tends to view violence restrictively as a byproduct of low socio-economic development. Many professionals share this vision as well. Thus, the notion that violence is mostly confined to poverty-stricken parts of the country, underprivileged neighbourhoods and poorly educated women is common*

⁴⁴ Albanian Women Empowerment Network. 'Report on the Implementation of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence in Albania,' December 2016. <http://awenetwork.org/wp-content/uploads/2017/01/Draft-IstanbulConvention-Monitoring-Report-1-1.pdf>. Accessed: 20th October 2017

⁴⁵ European Asylum Support Office. 'Albania Country Focus,' November 2016, available via http://www.ecoi.net/file_upload/2162_1479371057_easo-coi-albania-country-focus-final-final201611.pdf.

Accessed: 27th December 2017

⁴⁶ 3 Albanian Helsinki Committee. 'Report on the situation of respect for human rights and freedoms in Albania during 2016,' April 2017. http://ahc.org.al/wpcontent/uploads/2017/04/Albanian_2016_Human-Rights-Report_AHC_ENG.pdf. Accessed: 30th September 2017

currency. Such a notion erroneously implies that violence spares women and girls not falling into any such situation. Notwithstanding the widespread evidence that women's position in society and their susceptibility to violence are affected by a combination of political, cultural, social, religious, ideological and environmental considerations, and are not determined by economic factors alone.'

Furthermore, with significant interest for our short review on the survey which follows, the multiple challenges which exist for addressing adequately child trafficking and exploitation in Albania, the same report states: *'There is a tendency in Albania to promote forgiveness under the pretext of traditional family values. Women and girls themselves believe, to a large degree, that they should tolerate violence to keep the family together. This tendency transpires, for instance, in the actions of public officials in law enforcement and the judiciary who promote mediation outside any legal framework and without proper consideration for the safety of victims.'*⁴⁷

1. Extent and Patterns of Child Trafficking in Albania.

Is child trafficking recognised by the Government of the Country?

Whilst the RENATE field researcher agreed that the Government of Albania has accepted the problem of Child trafficking, the US Department of State sees the Government of Albania falling short on adhering to the minimum standards to eliminate Human Trafficking, though it undertakes significant efforts to do so. Although there has been investment from US aid and European Union funds to address the challenge of building an effective juridical response to the challenge of trafficking, and the Albanian Government has supported a number of targeted training events for its prosecutors and law enforcement personnel, with the intent that more traffickers would be apprehended and successfully prosecuted and convicted to substantial prison sentences, than in 2014, this has failed to materialise. In 2015-2016 there were fewer victims identified by the Government and NGOs. Furthermore fewer suspected traffickers were prosecuted by the Government according to its own records submitted to the UNODC, than in 2014.

⁴⁷ The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO). 'Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention),' Albania, 24 November 2017 <https://rm.coe.int/grevio-first-baseline-report-onalbania/16807688a7>
Accessed: 26th December 2017

There might have been an alignment with this disappointing result, with the decrease in funding for the state-run shelters for trafficking victims, which fell by roughly a quarter during this time. Though the US State Department recognised some improvement in the provision, the psychological, medical and reintegration services of the state-run shelter remained inadequate in their view. NGO shelters, funded from the Government, run by 12 fully-paid staff members, were still deemed deficient. For child trafficking victims, there was just one NGO-run shelter to provide specialised services, with inadequate funding.

The US TiP report of 2016 noted, that victims have been subject to investigation and punished by the Government for unlawful acts, perpetrated as an outcome of their trafficking situation, although this is against their own primary legislation which explicitly exempts victims from punishment if the crimes resulted from a situation of exploitation. An underfunded national strategy and action plan for 2014-2017 was set up by the Government as simultaneously the budget for the anti-trafficking coordinator was increased. Stakeholders, associated with the national referral mechanism, were gathered regularly by the national coordinator.⁴⁸ The 2016 GRETA report urged the authorities to reinforce pro-active identification of child victims of trafficking, in particular amongst street children, children in residential care institutions and Roma children. The report also pointed out that more efforts were required around training, quality control and resourcing for border control work where early identification of potential international / inter-regional trafficking could be greatly improved, with particular attention to be vested in the fate of unaccompanied children.⁴⁹

Summary: Although the Government undertook several actions to combat Human Trafficking in Albania, the results remain unmatched with the desired statements of compliance.

2. DATA COLLECTION

Is there a Central National Registration System in the country for victims of trafficking?

There are twelve regional anti-trafficking committees existing of local officials and NGOs, working on victims prevention and assistance. The nation-wide effectiveness of these committees is limited. A memorandum of understanding was signed off by

⁴⁸ US Department of State, Office To Monitor and Combat Trafficking in Persons 2016, Trafficking in Persons Report, Tier 2: Albania.

⁴⁹ GRETA report concerning the implementation of the Council of Europe convention on action against trafficking in human beings by Albania, adopted 11th March 2016 3 June 2016

the national coordinator's office, the state police and the general prosecutor's office, to observe the compliance of the criminal justice system in operating trafficking cases in 2014. Suspected trafficking cases could be reported from citizens on a free hotline and mobile application, co-ran by the Government and NGOs. In 2015 the hotline received 492 calls, of which 11 provided information on potential trafficking cases.⁵⁰ Notification and analysis of victims has up until recently only applied to a gendered breakdown of adult females and males and has not routinely disaggregated for children. This has also been a concern which GRETA has brought to the attention of the Albanian authorities, as part of the requirement of a National Referral Mechanism which ultimately delivers the results in terms of evidence-based policy and social protection responses.

Together with NGOs the Government identified 109 victims of trafficking or potential trafficking victims in 2015, 125 fewer than in 2014. 80 victims have been identified by the government, 27 by NGOs and two victims were self-identified. Only 38 obtained the official victim status, after agreeing to undergo a formal interview with representatives of law enforcement and social services, which was required to obtain this status.⁵¹

NGOs suffer a lack of funding from the Government, which was argued to have led to fewer identified victims by the US TIP report 2016. Among the identified victims 48 were minors and 87 female. 67 percent of victims were forced into sex trafficking, 9 percent were forced into labor trafficking and 16 percent were forced into begging. 86 percent of all victims were exploited within country, 12 percent abroad and two percent mixed exploitation, in Albania and abroad. The US TIP report called on law enforcement and social workers to protect and identify child victims and ensure their protection, and noted that they operated underfunded and understaffed.⁵² In 2015, 13 potential trafficking victims were identified by a mobile-operated NGO unit enabled through funding from the Czech Government.

According to NGOs, most victims haven't been identified during formal investigations from the authorities, but were labeled as cases of 'exploitation of prostitution.' Victims became vulnerable to prosecution for crimes they committed out of their situation of exploitation which in turn prohibited them from seeking trafficking-related services.

For victims who testified against traffickers, a witness protection programme was offered yet no trafficking victims attended the programme.

⁵⁰ US Department of State, Office To Monitor and Combat Trafficking in Persons 2016, Trafficking in Persons Report, Tier 2: Albania.

⁵¹ euobserver: Albanian women trafficked in EU: abused, rejected, abandoned, 2017.

⁵² Ibid

At least one case was reported by NGOs, where law enforcement discouraged testifying victims to access the protection services after their testimony.⁵³

Overall, 48 victims testified against traffickers. A three-month reflection period was provided from the law for foreign victims, together with a status of temporary residency and the allowance to work for up to two years. Though the Government has yet to grant this status to a victim. Officially victims could obtain restitution from the Government or sue traffickers. However not even one restitution was received by victims in 2015.⁵⁴ As previously mentioned, formally identified victims of trafficking are exempted from punishment in Albanian law, yet NGO-run shelters reported the conviction of three sex trafficking victims charged with offences of prostitution in 2015.⁵⁵

A UN special report on Human Trafficking reporting in 2016 cited corruption and high rates of 'churn' in the police seriously undermining law enforcement's ability to take consistent and effective action against trafficking offences in Albania. It cited complicity of officials in trafficking crimes, and widespread corruption of public sector employees as a pervasive and significant obstruction in combating human trafficking. A Socialist member of the Albanian parliament was cited in the US TIP 2015 report as having been convicted for trafficking-related crimes, and summarily resigned, though the conviction dated to over a decade before.⁵⁶ (convicted for trafficking-related crimes⁵⁷).

85 cases of trafficked women have been reported from the National Coalition of Anti-Trafficking Shelters (NCATS) and a group of NGOs, in 2015. Realistically the numbers are widely agreed to be in their thousands – with one third of the 140,000 trafficked women reported to be in bondage in Europe, coming from the Balkans. In their report *Breaking the Cycle of Trafficking in Albania*, UN Women noted that there were disclosures made to them of manipulated numbers, numerous cases of false employment prospects and proxy marriages with 'lover boy' recruitment high on the agenda as a modus operandi for extracting young females from their families,

⁵³ Ibid

⁵⁴ Ibid

⁵⁵ Ibid

⁵⁶ Alberta Ndoka was convicted in 2003 in Rome of trafficking a woman who was his brother's fiancé. He was jailed for seven years and six months but was transferred to a prison in Albania where the courts cut his sentence and he was free within less than three years. This pattern of heavy sentencing being overturned once back in Albania, is of real concern for counter trafficking NGOs and EU bodies charged with encouraging better compliance of Albanian legislature and Judiciary in this domain. <https://euobserver.com/investigations/131964>

⁵⁷ Ibid

bringing them away from their social network of support in order to exploit them in other countries.⁵⁸

3. PROFILE OF COUNTRY AND ROUTES OF TRAFFICKING

Is this mainly a Country of origin/transit/destination of victims of trafficking ?

In February 2017, the National Crime Agency (NCA) reported 179 cases of human trafficking victims from Albania in the UK in the last quarter of 2016. Two were exploited in domestic servitude, 51 were trafficked into labour exploitation, 108 into sexual exploitation and 18 suffered exploitation in unknown areas. This represented a growth of 22 percent, compared with the preceding quarter.⁵⁹ 120 of the Albanian trafficking victims are adults, and 59 minors (children of 17 or younger). This equates to a growth of 28 percent in the reporting of trafficked minors over the reported years of 2013 – 2015 in the UK.⁶⁰ For 2017 the overall figures for child trafficking into the UK was recorded by the National Crime Agency as 210, with 28 of these having been identified as embroiled in sex trafficking, and 141 of them in some form of labour exploitation.⁶¹

The rates of those being trafficked from Albania or through Albania into its neighbouring countries, Greece and Italy are catastrophically higher, but the figures are difficult to extract with any certainty. A conservative estimated number of 4,000 children has been given which amounts to a loss of 200 minors per annum into Greece and Italy, during a twenty year period 1992-2002, with trafficking for sexual exploitation, begging, labour or slavery cited as the areas of exploitation. Most of those recovered are from rural environments (around 48 percent) with 52 percent experiencing seven years combined Primary and Secondary school attendance or less. These figures are largely as the tip of the iceberg. When one looks at the returns of families which have been organised over the last few years, in the wake of the economic and financial crisis of Greece in 2009, the voluntary returns during this period was recorded as 98,414 males and 35,130 females (non disaggregated with minors) 133,544 economic migrants returned mainly due to the collapse of employment opportunities in Greece. A survey undertaken by the IOM in co-operation with the Albanian Institute of Statistics, showed a lack of reintegration opportunities which put these households and individuals at risk of 're-migration'

⁵⁸ UN Women: Breaking the cycle of human trafficking in Albania, 2016.

⁵⁹ National Crime Agency: National Referral Mechanism Statistics Q4 – October to December 2016, page 5.

⁶⁰ Ibid, page 9.

⁶¹ National Crime Agency: National Referral Mechanism Statistics 2017

under terms which could be less secure, more prone to risk of exploitation than their previous migration.⁶²

Albanian organised crime networks have been responsible for generating sustained numbers of females into pimped prostitution across Europe over the last three decades and now Albanians are top of the European countries in this form of exploitation.⁶³ In 1998, 5,000 Albanian women and girls were forced into prostitution in Greece and approximately 8,000 of them were brought to Italy. In 2014 this number spiked to a staggering 20,000 victims estimated as present in Greece from Albania – a figure which when one considers the zero presence of trafficking out of Albania prior to 1990, is truly staggering.⁶⁴

Since the liberalisation of travel and free movement, Albanians have become subject to international and internal trafficking. Reports of internal human trafficking have increased in Albania, especially related to seasonal migration to tourist destinations. In Albanian law, internal trafficking is equated with prostitution. There is no standard definition of internal trafficking which would allow for a more appropriate response to ‘victims’ and also to consider the potential of labour trafficking and other forms of trafficking which can affect children and adults, male and female. Currently prostitution is punished as a crime against ‘morality and dignity.’ Those coerced into prostitution lack an agency and voice within the law enforcement systems and can experience a double victimisation in their exploitation; once from their trafficker/pimp and twice through the processes of law enforcement and the justice processes. Meanwhile male and female minors forced into other forms of trafficking exploitation, for example in labour, criminality or begging can be overlooked due to the lack of clear legislation and awareness of this form of trafficking known within Albania.

A new database (SIVET) was introduced in 2014 with a view to collecting information on victims of human trafficking from different sources, including from police and victim assistance services. This database is intended to enable the authority tasked with the formal identification of victims to manage each case and distinguish between potential victims, that is after initial identification, and victims who have been formally identified. There is a single person designated within the Office of the National Anti-Trafficking Co-ordinator (ONAC) to access and manage this database. Only members of the Responsible Authority of the NRM have access to certain data held about victims. However, GRETA notes in its 2016 report that the available

⁶² INSTAT (Albanian Institute of Statistics)/IOM (Office of the International Organisation for Migration) Return, Migration and Reintegration in Albania 2012/2014 p 57

⁶³ Merita H. Meçe: Effectiveness of Counter-Trafficking Response in Albania. Social Change Review 25. Summer 2016, Vol. 14(1), pages 29-31.

⁶⁴ Ibid, pages 29-31.

statistics released to its review team, did not provide information on the types of exploitation, which is crucial to inform and adapt where anti-trafficking action is concerned.

Trafficking for sexual exploitation within Albania sees girls and also some boys displaced to main cities and exploited in the rapidly expanded outlets for paid-for-sex encounters. Over half of the internally trafficked victims in 2009 were girls and women. This is a percentage which has continued steadily across the decade, though the numbers being reported are not in absolute terms high, but as a percentage of the population are significant. Young women and girls are brought into prostitution through the 'lover boy' system in the urban clusters, or trafficked into 'forced marriages.' They were forced into prostitution in private residences and hotels in towns like Tirana, Durres and Vlora. Almost 25 years after its political transformation from an enclosed communist state to a more "open to the West" democracy in 1990, Albania has emerged as Western Europe's leading source-country for trafficking in human beings. Italy, Kosovo, Greece, Belgium, Switzerland and the United Kingdom are key destination locations. Children are forced not just into begging and criminality but also into prostitution. A substantial number of those who are exposed to this form of exploitation are from the Roma community.⁶⁵

Between 1992 and 2002 (according to data released by the Albanian Ministry of Public Order) children of the Jevgjit community, a group of Albanian-speaking "gypsies" were sold for adoption into European countries. Neither the full numbers involved nor the names of destinations have been revealed, but occurring at the turn of the millenia, this form of trafficking through adoption is a cause for concern and is one of the themes picked up on in GRETA's 2016 report.⁶⁶

According to the US TIP report 2016, children from Balkan-Egyptian ethnicity, are forced into begging and labor exploitation both internally and sent abroad to Balkan neighbours in Kosovo, Macedonia, Montenegro and Greece, along with some to other European countries. Girls are especially at risk of child sex trafficking. NGOs report increasing numbers of Albanian children forced into labour exploitation or into arranged marriages in Kosovo and the UK.⁶⁷

In 2014, 2,527 children in Albania were identified as involved in some form of *on street* trafficking abuses within Albania, 700 of these in Tirana alone. There is a

⁶⁵ Merita H. Meçe: Effectiveness of Counter-Trafficking Response in Albania. Social Change Review 25. Summer 2016, Vol. 14(1), pages 29-31.

⁶⁶ Eglantina Gjermania, Mary P. Van Hook et. al.: Trafficking of children in Albania: Patterns of recruitment and Reintegration. In: Child Abuse & Neglect, page 942. (2004)

⁶⁷ US Department of State: TRAFFICKING IN PERSONS REPORT JUNE 2016, page 70.

growing body of evidence that children are emerging as at risk of trafficking from families and households under stress from poverty and social exclusion, whilst additional challenges of parental violence, sexual or emotional abuse alongside economic poverty and the foreclosure of educational opportunities is a part of the wider backcloth of a generic risk for trafficking recruitment and exploitation.⁶⁸

Children living out their lives on the street are particularly at risk due to their very publicly demonstrated vulnerability and a lack of supervision by suitable adults. According to the ARSIS study for UNICEF, the ubiquitous violation of children's physical and mental health which can emerge from 'on street' living, is matched by the potential for children to be trafficked, and coming into contact with law enforcement is a way which compounds their exclusionary experiences.⁶⁹ Significantly 41 percent of the boys noted 'on the streets' (772) are usually alone, while 55 percent of the girls (355) are accompanied by pimp or minder. Children from the age of 5 to 14 years (1,410 children) are either noted alone, or with other children, frequently brothers and sisters. Adolescence in Albania (776 persons) exposes minors to a solitary existence on the streets.⁷⁰

The most usual location for families, with children living 'on streets' is Tirana. Community members of Shkodra reported to UNICEF their internal rural-urban migration to Elbasan and Berat, with others migrating from the north of the country, namely Dibra, Puka and Tropoja. Most of the children remembered that they lived in the same city since their initial migration, contrary to the general belief that these children migrate from one city to the next. Relatively few migrate between the regions of Tropoja, Kukes, Fier, Elbasan, Berat, and Shkodra.⁷¹

Initial and in-depth interviews with these children brought to light that 30 percent of them – 235 out of 782 – were forced into begging by their parents who themselves were living in poverty. 4 percent – 32 out of 782 – were coerced by other adults to generate income through 'street activities'. These children are clearly exploited and exposed by their on- street activities, social network depletion and criminalisation to the risk of being further trafficked either within Albania or recruited into the international market.⁷² Social workers observed children as 'mothers' begging for money. This becomes a breeding ground for grave activity such as begging and

⁶⁸ Veronika Duci, Izela Tahsini: Regional Research on prevalence of street children phenomenon in Albania, Bosnia and Herzegovina, Montenegro and Serbia, page 8. Center of Official Publishing (2010). Law No.10347, dt.4.11.2010. On the protection of the rights of the child. Retrieved in July 2016 from http://fletore_zyrtare/2015/PDF

⁶⁹ UNICEF: National Study on children in street situation in Albania Prepared by: ARSIS GFK Albania International expert, April 2014, S. 51.

⁷⁰ Ibid, page 52.

⁷¹ Ibid, page 49.

⁷² Ibid, page 53.

grinding poverty. Adolescents and young adults take very young children and babies on the streets with them so as to beg.

Many of these children are drugged to keep them quiet. Seventeen of such mothers were sent to court and thirteen were placed in custody by state social services or put into residential institutions in 2013. In the case of violence and abuse, it can take the court from 24 to 72 hours to come to a clear decision to generate a child-protection order. Extraordinarily it takes from 3 months to one year for a decision on the legal guardianship for a child to emerge from the courts. Between 2009 and 2013, a mere 29 cases of children in 'street situations' were mentioned by the representative of the organisation ARSIS as having been referred to the National Coordinator for anti-trafficking in Albania. These children had all experienced sexual exploitation in Kosovo and Albania. Because prostitution is a criminal act in Albania, also applying to children, UNICEF reports that it is extraordinarily difficult for children to receive appropriate assistance from the state authorities, for the numerous cases of exploitation to emerge, to see the affected children safeguarded appropriately, their cases against taken forward against pimps, traffickers and 'clients.'⁷³

Furthermore, in 2013 social workers counted 31 unaccompanied children in street situations in Durres Harbour, 19 in Vlora Harbour, 2 in Kapshtica and 5 in Kakavija, both towns on the border with Greece, , areas which are restricted zones between borders. The National Standard Operating Procedures (SOP) pointed out that these children have not been properly screened as victims or at the very least potential victims of trafficking. The appropriate support and investigation of their situations had failed to be passed over to the Albanian or appropriate country authority for anti-trafficking.

Regular deportation of unaccompanied children or Roma families has been practised by Greek and Kosovan authorities, although it is clear that such deportation processes are against international conventions, treaties and Albania's own national legislation. All have signed bilateral agreements : Albania – Greece 2008, and Albania – Kosovo 2012, which were flouted at the time of the UNICEF report of 2014..⁷⁴

A significant report submitted by the Albanian Helsinki Committee states there is an outstanding:

'need to increase measures for the prohibition of discrimination and the integration of marginalized society groups. Citizens of the Roma and Egyptian communities living in the municipalities of Tirana, Durrës, Fier, Berat, Shkodra, and Kruja do not possess minimal information about their rights and the tools to seek them. (Clear sections of Roma children do not) follow compulsory education or drop out of school. A considerable number of persons from among these communities collect urban waste

⁷³ Ibid, page 53-54.

⁷⁴ Ibid, page 54.

*as the only way to (generate income). Possibilities of employment and vocational training for these citizens are scarce. Social housing programs offered for vulnerable families of the Roma community, whose unlegalized (sic) houses were demolished, have failed to effectively and sustainably guarantee a calm family living. The lack of a definition for the subsistence level through legal and sub-legal acts has influenced the reduction of the quality of life of these communities and has led to an avoidance of full responsibilities by the state for providing sufficient aid for families in need’.*⁷⁵

The same report notes how Albania has been a Balkan epicentre for the illegal movement of narcotics, and that many children are caught up in criminality associated with this illicit trade. This exposes them to other forms of illicit ‘business’ including sexual exploitation particularly but not exclusively for females..

4. DATA AVAILABLE – STATISTICS.

Are there OFFICIAL STATISTICS regarding the number of children that have been trafficked TO/WITHIN/FROM the country? How are child victims of trafficking IDENTIFIED in the country?

In the table below:

No. of identified children in street situation and cases managed during June 2014-June 2015 and July 2015-June 2016

Municipality	No. of Children identified in street situation		No. of cases managed by Child Protection Units		No. of new cases managed by CPUs
	Jun 2014-Jun 2015	Jul 2015–Jun 2016	Jun 2014-Jun 2015	Jul 2015–Jun 2016	Jul 2015–Jun 2016
Tirana	315	242	141	211	70

⁷⁵

Elbasan	37	27	23	27	21
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ef. ⁷⁶⁾

5. CAUSES OF CHILD TRAFFICKING.

Are there groups of children who are more frequently reported to be affected by trafficking? (Nationality- Ethnicity- Religion?).

Undoubtedly the economic and social impact of the fall of communism and the resultant change in economic and migratory opportunities has been profound. It has resulted in the collapse of the extant social protection– however dysfunctional and assymetric in its realisation. - This is a country with strong patriarchal-structured households. The movement of females and children is traditionally instigated by males. The collapse of communism saw an immediate rise in migration within Albania, with rural to urban migration and also for the first time migration out of Albania occurring in large numbers. ⁷⁷

The extent of the poverty which was revealed in the years immediately following the collapse of the communist regime pursuant to the death of Enver Hoxha, coupled with the appalling corruption and collapse of nationwide pyramid selling scandals which virtually bankrupted the economy, was discovered in data which revealed 150,000 children out of about 900,000 (one in nine) between birth and 14 years were abandoned by one or both parents, and supported by their extended family, barely managing to cover their basic survival needs. In order to escape the challenging living conditions, people migrated from rural to more urban areas or to foreign countries. Protection for children decreased, simultaneously child labor and the risk of exploitation increased. Many children in street situations are from poor families who migrated to larger cities. The Roma Gypsy groups, who ubiquitously face social discrimination, are especially endangered to poverty. Many are illiterate, suffer poor health because of their living conditions or socio-economic status and lack of employment possibilities in mainstream skilled labour locations. School in this community is less valued than remunerated work, no matter what sort of labour is entailed. In a recent survey undertaken by Gjermania and Hjook, 80% of the sampled

⁷⁶ National Action Plan "On identification and protection of children in street situation 2015-2017" ANNUAL REPORT JULY 2015 –JUNE 2016, page 10.

⁷⁷ Smith, Athena. 2014. 'Correlations of sex trafficking in three Balkan countries.' African Journal of Hospitality, Tourism and Leisure 3(1). [online]. Available at http://www.ajhtl.com/uploads/7/1/6/3/7163688/article_3_vol_3_1_2014.pdf [accessed 8 December 2015].

Roma children were illiterate and dropped out of school because of a variety of factors, including racism and other forms of social stigma. It is not surprising that children from these groups are exposed to a higher risk of trafficking within Albania as well as taken across borders. This research was assisted by interviews with parents of trafficked or released children. These interviews helped to give voice to some of the ongoing challenges which children from this ethnic grouping face in long-term integration and social advancement in Albanian society.⁷⁸

Trafficked/released children.

Males: 42.

Females: 19.

Mean age 14.1 years

15.3 years.

General circumstances of the 61 trafficked/released children.

Working on the streets 52 (85,3%)

Poverty: lack of basic needs like food 51 (84.9%)

Ethnicity: gypsy 52 (85%)

Never registered for school 27 (32.5%)

Finished elementary school 28 (33.7%)

Finished high school 18 (21.7%)

Dropped out of school (level uncertain) 10 (12%)⁷⁹

80

The UN Committee on the *Rights of the Child* 2012, noted that Albania has a large number of children who are subjected to economic exploitation and some who are involved in hazardous occupations. In the framework of the World Day against Child Labour on 12 June 2015, the State Agency for the Protection of Children's Rights, in co-operation with ONAC, the Ministry of Education and Sports, the International

⁷⁸ Eglantina Gjermania, Mary P. Van Hookb et. al.: Trafficking of children in Albania: Patterns of recruitment and

Reintegration. In: Child Abuse & Neglect, page 942-943.

⁷⁹ Ibid, page 944.

⁸⁰ UNICEF: National Study on children in street situation in Albania Prepared by: ARSIS GFK Albania International expert, April 2014, page 52-53 a. 55.

Labour Organization (ILO), the OSCE Presence in Albania, USAID and NGOs organised an awareness-raising campaign to assist in the protection of children from labour exploitation and to encourage access to education. The campaign conveyed the message "No child labour and exploitation, but proper education".⁸¹ Unfortunately there has not been a follow-up impact assessment on this campaign. , However it has raised awareness with the state system that there are some wider-ranging trafficking and forced labour offences present in Albania, catching children within its processes.

6. ASSISTANCE – LEGAL AND PROFESSIONAL.

Has the Council of Europe action on trafficking been ratified in the country?

Yes. Albania enacted legislation before 2012 in line with the UN with a definition of Trafficking in Persons Convention against Transnational Organised Crime (Palermo Protocol) Balkan countries in South-Eastern and Central Europe did likewise.⁸²

Albania also sought to ratify the Council of Europe Action against Trafficking in Human Beings, to prevent, suppress and punish trafficking in persons, in particular women and children. The Council of Europe anti-trafficking Convention forms an integral part of Albania's internal legal system. The Albanian authorities take some pains to alert review bodies that its law and administrative regulations are aligned with the Palermo Protocol, and that due notice is given to Judicial and Administrative authorities when sentencing or delivering prosecutions. However, GRETA and the US Trafficking in Persons reports consistently request Albanian law enforcement and the Judiciary to pay greater attention to training its front-line personnel to improve early identification of trafficked children ; ensure observation of the appropriate procedures which should be followed for the protection of the best interests of the Child and minimise onward risk of secondary victimisation.

The three main provisions against human trafficking are embedded in the Albania's criminal codes where article 110 applies to (a) (trafficking in persons), article 114 (b) (trafficking in women) and article 128 (b) (trafficking in minors).⁸³

In 2008 the Albanian government undertook an awareness-raising campaign against human trafficking entitled, *'Human trafficking is a dead-end path : Say No to human*

⁸¹ Committee on the Rights of the Child, Concluding observations the combined second to fourth periodic reports of Albania, adopted by the Committee at its sixty-first session (17 September–5 October 2012), CRC/C/ALB/CO/2-4, paragraph 78.

⁸² TIPP: Global Report on Trafficking in Persons 2016, page 83.

⁸³ G R E T A :Group of Experts on Action against Trafficking in Human Beings: Council of Europe 2011, page 10.

trafficking'.⁸⁴ Some campaigns targetting child labour specifically were carried out, seeking to eliminate its worst forms. The campaigns operated through traditional media, posters, television advertising and the development of educational resources. Some focused on child trafficking for the purpose of labour exploitation.⁸⁵ However with large numbers of Roma and Egyptian children not in school or full time education, there are major questions as to whether this form of 'awareness raising' actually serves any real purpose other than showing international guardians of counter trafficking legislation, that this work is done in Albania, through public awareness posters and a state declaration of intent against trafficking.

Is there a REFERRAL MECHANISM in the country? Are there LEGAL PROVISIONS to appoint a LEGAL GUARDIAN when a child victim of trafficking is identified in the country?

The National Referral Mechanism is in place in Albania. It sits within the Interior Ministry, lead by the Vice-Minister and works across the following secretariats and departments:

- Inter-ministerial Committee on the Rights of the Child
- Technical Secretariat for Children
- National Coordinator for Combating Trafficking in Human Beings
- Authority Responsible for National Referral Mechanism.
- Sector for Fighting Illegal Trafficking in the Border and Immigration Police Directorate .
- National Reception Center for Human Trafficking.
- Victims Sector of Children's Rights to the Ombudsman.

The NRM states that any formal identification of a child as a trafficking victim has to take place in the presence of a parent, guardian or legal representative. If none is present, a specially trained psychologist has to be present.⁸⁶ Further explanations about the legislative text (e.g. in terms of the legal guardians responsibilities) are not clearly specified.

Where there has been violence or abuse, it takes the court from 24 to 72 hours to make a decision for a child-protection order to be issued. In the process of designating legal guardianship for children, often the court requires at the very minimum 3

⁸⁴ Ibid, page 24.

⁸⁵ Ibid, page 24.

⁸⁶ Ibid, page 28 .

months which can stretch up to 1 year.⁸⁷ The UN Committee on the Rights of the Child has serious reservations about the lack of specialised juvenile justice courts in Albania, and has designated this as a major problem needing to be addressed in order that Albania to be in line with international standards.⁸⁸ Furthermore the UNICEF report noted that there appears to be serious neglect of children's rights-focussed training for judges; poor co-ordination between the services that the children are coming in contact with during frequently protracted legal proceedings which puts them at further risk. At worst, re-victimisation can take place due to incoherent and non-aligned procedures, with the young people slipping through the intended Council of Europe NRM based, net of safeguarded care. To improve the legal framework, six district courts established special sections for young people, but the large number of cases – also handed over from other districts - created work overload and a number of difficulties outlined in the UNICEF report.⁸⁹ This is obviously an area for some consolidated work to develop coherence and set sufficient resources in place.

There are four designated Shelters in Elbasen, Tirana and Vlora, currently providing assistance for women and child victims of trafficking, three run by NGOs and one by State run. Accommodation, medical assistance, counselling and personalised reintegration programmes, help with finding jobs are provided by the NGO-based shelters. Furthermore a number of these shelters supply day – outreach facilities where trafficking victims or potential victims can seek advice or follow 'into-employment' training courses. There are ten shelters operating for victims of domestic abuse across the country, and these also operate with recovery and support roles for trafficked women- a combination which can present some challenges. NGO-run shelters supported 75 trafficking victims and potential victims and the state-run shelter supported 30, (10 in 2015). The government provided 21.7 million leks (\$169,231) to the state-run shelter (2016), a decrease from 23,970,000 leks (\$186,900) in 2015 ; and 15.3 million leks (\$119,093) to NGO-run shelters to support 24 staff salaries, representing a 5 million Lek increase from its support of 12 staff salaries in 2015. Following the advice of GRETA there was an addition of 4.7 million leks (\$36,647) to the budget for support of victims, procured from seized criminal assets to fund reintegration and support services.

⁸⁷ UNICEF: National Study on children in street situation in Albania Prepared by: ARSIS GFK Albania International expert, April 2014, page 54.

⁸⁸ UNICEF: National Study on children in street situation in Albania Prepared by: ARSIS GFK Albania International expert, April 2014.

⁸⁹ Child Rights Situation Analysis 2012-2015, page 27.

However, food support for NGO-run shelters decreased in year 2016 to 1.8 million leks (\$14,035) from 3 million leks (\$23,392) in 2015. Notwithstanding the few numbers using the services, NGO-run shelters continued to operate under considerable financial constraints and relying on outside sources for operating costs. According to the US TIP report, financial mechanisms used to fund these shelters remains over-complicated and open to manipulation by local governance away from the capital. Government funding for the three NGO shelters was delayed by two months and one shelter never received funding for food. The NGO shelters allow adult victims to leave the shelter voluntarily, but the state shelter required victims to seek approval from the director.⁹⁰ The government provided free vocational training, textbooks for child victims, and health vouchers giving free access to health care. Only one NGO shelter provides specialised services for child victims under the age of 16. Adult or Male youths are provided with rented apartments, receiving back-up support and assistance from other NGOs. Technnically, foreign victims have the same access to these services as domestic victims, including legal assistance but the data on support is still less transparent than it could be according to GRETA, 2016.⁹¹

It was argued by government that the number of shelters was adequate with respect to the number of 'identified' trafficking victims. However in the GRETA report of 2016, there were a number of concerns raised around the present provision. Further training was seen as essential for all concerned and a new collaboration between the IOM working alongside the Ministry of Social Affairs and Youth was welcomed. This collaboration resulted in organised training sessions for social services staff, with four sessions covering internal trafficking of children, the Standard Operating Procedures and case management (in 2014). Hopefully this is a pattern which may continue for delivery and upskilling of the required personnel. In March 2013, USAID and the IOM organised a day workshop in Tirana on victim re-integration services. In November 2013, a one-day training session was organised by the National Coalition of shelters for victims of human trafficking and the IOM.

In parallel, the Shkodra regional social services office organised training sessions on trafficking in human beings in municipalities. In addition, with a view to rolling out an initiative to three other regions, focusing on street children run in Tirana a training course on identifying trafficking victims among children living and working on the streets, was organised for 62 staff working in child protection units ; children's rights protection units ; social services regional offices ; municipal social services ; local police stations and NGOs.

⁹⁰ US TIP report Albania 2017.

⁹¹ GRETA Group of Experts on Action against Trafficking in Human Beings, Council of Europe 2016.

The Child Rights Situation Analysis 2012-2015 notes that combining victims of domestic violence within the current provision is not particularly acceptable. Moreover the numbers being catered for in the National Referral Mechanism seems a very conservative portion of those affected by trafficking in the country, according to other studies (UNICEF, IOM, UNODC). In 2010 a total of 97 83 women and 14 children were recorded. There is a low uptake in addressing children caught in general criminality (narcotics and street crime) or labour trafficking. Furthermore, there is no indication of the provision of special staff for children, an issue which GRETA and the EASO Country of Origin country information report of 2017 drew attention to for redress.⁹²

The GRETA review of Albania in 2016 noted that some of its initial findings in 2011 were still needing attention. GRETA welcomed the appointment of a National Anti-Trafficking Co-ordinator, the setting up of the National Anti-Trafficking Task Force and regional committees against human trafficking, alongside the establishment of a National Referral Mechanism for the identification and assistance of victims of trafficking. However, GRETA found that prevention measures, including public awareness and access to education and employment of the vulnerable to trafficking needed to be strengthened. The reports submitted by the Albanian Helsinki Committee and the EASO Country Origin Information Report included criticism of judiciaries as sluggish in their processes, and potentially corrupt in some of areas of personnel.⁹³

Reports considered that the authorities had to improve the identification of victims of trafficking, particularly men and foreign nationals, as well as victims of internal trafficking, whose numbers at least in terms of 'identified victims' now exceed those trafficked abroad. This is something to be clearly placed under more scrutiny and data research. GRETA urged the authorities to guarantee the assistance measures provided for by law, including a realisation of adequate funding of NGOs running shelters. It stressed the need to ensure that victims of trafficking can exercise their right to compensation and that the protection-measures provided for in law are actually applied in practice.⁹⁴

Albanian consular services abroad are by law tasked with notifying immediately the responsible authorities in Albania if they are informed by their host countries that trafficked victims or potential victims are seeking to return to Albania or are in the process of being repatriated, so that optimal assistance is afforded to returnees upon

⁹² GRETA Group of Experts on Action against Trafficking in Human Beings: Council of Europe 2011, page 30.

EASO Country of Origin Information Report Albania Country Focus 2017

⁹³ EASO Country of Origin Information Report Albania Country Focus 2017: Albania Helsinki Committee 2017

⁹⁴ GRETA report 2016

arrival in Albania. Where the victim is a minor, authorities of host countries with the Albanian authorities must seek to ensure that the best interests of that child inform their processes of return at least in the public documentation issues concerning such procedures. There are some Bi-lateral co-operation agreements on child victims, one of the earliest (concluded in 2009) between Albania and Greece. However the numbers involved in such returns are extremely low.

Since 2009 (as of 2015 figures) three Albanian children, potential trafficking victims, were repatriated from Greece to Albania. With thousands of Albanian children widely presumed to be living in Italy, Greece and Spain the efficacy of such bi-lateral agreements begs attention and the implementation of safe repatriation in larger numbers, where this is deemed 'in Best Interests,' According to a study on Albanian children found begging in Kosovo, there was a general lack of co-operation between the authorities in Albania and Kosovo for any such repatriations to be undertaken. Scores of child victims or potential victims are stranded in Kosovo in difficult and unsupported situations. Reportedly the necessary precautions for the return of the children were not taken. Hence the responsible authorities in these instances were deemed to have failed to ensure the best interest the child.⁹⁵

The GRETA report of 2016 noted that the Ministry of Social Affairs and Youth had organised training sessions for social services staff, in collaboration with the National Anti-Trafficking Co-ordinator and IOM. GRETA was informed that four sessions covering internal trafficking of children, the SOPs and case management had been run in 2014. In March 2013, USAID and the IOM organised a day-long workshop in Tirana on victim reintegration services. In November 2013, a one-day training session was organised by the National Coalition of shelters for victims of human trafficking and the IOM. In parallel, Shkodra regional social services office ran training sessions on trafficking in municipalities. In addition, with a view to rolling out an initiative focusing on street children run in Tirana to three other regions, a training course on identifying trafficking victims among children living and working on the streets was organised for 62 staff working in child protection units, children's rights protection units, social services regional offices, municipal social services, local police and NGOs. This work may well see a rise in identification of those caught in trafficking in subsequent years by front line staff in social services and in Policing in Albania.

The penal code acknowledges the right of children to special protection measures if they are assisting in the prosecution of perpetrators. It has been posited that if they witness against perpetrators or co-operate otherwise with the investigating or

⁹⁵ Ibid, page 34.

prosecuting authorities, they have protection of their identity, from intimidation and the indemnification of their safety.⁹⁶ The GRETA report of 2016 wanted to see this protection properly extended to all children regardless of whether they were supporting prosecution cases or not.

7. PROVISION – PROTECTION OF THE CHILD.

Are there legal provisions in the country that automatically grant temporary right to remain' if the child is a foreign national ?

Consular staff have been petitioned to identify presumed or actual victims of trafficking with a view to referring them to the relevant entities for formal identification.

According to article 10 of the UNTOC convention, in the Council of Europe Action against Trafficking in Human Beings parties are required to have measures in place for the identification of victims of trafficking, as well as secure methods for ascertaining their age. States are required to have the competent authorities with trained and qualified staff to prevent and combat human trafficking, identify and help victims, including children.

Currently this process of identifying a trafficked victim, unleashing an investigatory process of the trafficking offence and securing appropriate support, is both a resource and time-demanding process. The Convention provides potential trafficking victims the right not to be removed from the country where they have been located until the comprehensive process of identification is completed. It is required that during this time they are entitled to receive the assistance necessary.⁹⁷

The process of identification in Albania takes place in two phases : the initial and the formal identification. Through the initial procedures of identification which includes diverse physical, psychological and socio-cultural interventions, the clarification around the person as victim is built. Inter alia, the initial identification can be carried out by:

- teachers
- school psychologists
- police officers
- social service providers
- health care staff

⁹⁶ Ibid, page 39.

⁹⁷ Ibid, page 27.

- municipal officials
- members of NGOs
- members of child protection services.⁹⁸

GRETA is at pains to point out in its 2011 and 2016 reports on Albanian procedures that victims of trafficking are very vulnerable and deeply traumatised after the abusive experiences they have undergone through trafficking.

According to article 13 of the Convention, the parties are obliged to provide a period of at least 30 days for recovery and reflection based on internal law. On the basis of the 30-day minimum period of time, the victims cannot begin to recover and also escape from the negative influence of their traffickers and reflect on whether to co-operate or not with the competent authorities. During that time expulsion orders cannot be enforced. The parties have to authorise the victim to stay on their territory.⁹⁹

8. Permanent/Temporary Residency Data.

Is there data on children who have received permits for residency in the country ?

Article 5 (9) of the co-operation agreement of the National Referral Mechanism requires that a temporary residence permit be granted to any victim who wants to stay in Albania to reflect, recover and benefit from assisted repatriation or if the person wishes to co-operate with the prosecuting authorities.

The residence permit has to be granted by the Albanian authorities and is required for all trafficked or potential victims, regardless of their willingness to co-operate with the persecuting authorities. Before being interviewed by the police or a prosecutor, no foreign victim can be removed from the territory, as stated in article 5 (10) of the COE convention. A victim or potential victim has to be examined by a pre-screening team, given access to social services and given the chance of requesting a temporary stay in Albania. It is also the responsibility of the Albanian authorities to inform the victim about applying for temporary residency.¹⁰⁰

In Article 31(1)(b), the law on foreign persons provides, in exceptional cases, for the issue of a residence permit, on humanitarian grounds, if the person is indeed a victim and in need of protection. According to article 3(33) of the law on foreigners, a trafficking victim is, *'a foreigner or stateless person who has been subjected to*

⁹⁸ Ibid, page 27.

⁹⁹ Ibid, page 31.

¹⁰⁰ Ibid, page 31.

*trafficking in human beings, i.e. a victim of the crime of THB, as provided for in the 2000 Palermo Protocol and current Albanian legislation’.*¹⁰¹ The duration of the residence permit can vary from three to six months or even one year with the facility to renew.

Article 31(2) of the law on foreigners states that a foreigner with a residence permit, as described in Article 31(1)(b), shall enjoy the following rights:

Financial aid and support, free access to health care as well as all the assistance afforded to every trafficking victim in Albania.

In special cases, article 60(1)(g) of the law on foreigners provides for the possibility to apply for a work permit, which is restricted for a maximum of one year. Decisions on such a permit are made by the relevant public authorities. Furthermore, article 31(1)(c) of the law on foreigners, grants foreigners a residence permit if they have agreed to co-operate with the judicial authorities at the request of the public authorities or national security agencies’.¹⁰²

Notwithstanding that which is present in the statute books, between 2008 and 2010, no foreign victims of human trafficking were identified in Albania. As a result no exceptional residence permits were issued, whether for a recovery and reflection period, or on other ‘exceptional’ grounds. In 2011, GRETA was critical of the Albanian state in this regard, and judged that the law on foreigners insufficiently emphasised the fact that the recovery and reflection period was to be afforded to potential victims, especially to persons who had not decided whether to co-operate with the judicial authorities on their particular case.

Consequently the Albanian authorities were encouraged by GRETA to clarify the legal arrangements governing the recovery and reflection period and enshrine them in law.¹⁰³

9. Repatriation Data.

How many child victims of trafficking have been repatriated to their country of origin ?

In 2003 a study guided by the Manual for Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in the Balkans and Ukraine was conducted. Participants represented a sample of 61 children and their families from selected

¹⁰¹ Ibid, page 31.

¹⁰² Ibid, page 31.

¹⁰³ Ibid, page 32.

communities along with key informants. The children had been trafficked and subsequently released.¹⁰⁴

A majority of the trafficked children were returned home by the police (31 children, 50%). Some of them had been arrested, others had asked for help. 16 of the children reported that they had not sought help and managed to get home on their own. The research team was informed by key experts, that the process of return was hindered by the judicial authorities in Greece. Children older than 12 were jailed until there were enough of them to fill a truck. Then they were deported to the Albanian border where many of them were immediately re-trafficked. Children under the age of 12 were placed in an orphanage. Once there, the National Centre for Protection of Children in Greece tried to identify their families in Albania to send them home. The number of returned children was low. The reintegration process for the children was difficult because the communities offered just limited integration opportunities. Many children reported that they wanted to go to school and live a normal life, but only a few managed to adjust. Due to their past, they were stigmatised as trafficked victims and suffered from being even further behind in school. Many of them worked on the streets. Only 4 wanted to stay with their parents, 14 wanted to work alone in a foreign country again but this time legally. Eight boys and two girls wanted to leave their families for reasons of conflicts and the inability of their families to meet their basic needs. The current situation of the children was negatively impacted by their emotional trauma and painful memories. They also suffered from fear of being re-trafficked. Those fears became real for some of the children during the study.¹⁰⁵ This is of course historic information. However it is this form of detailed analysis which raises some of the challenges present on the ground for addressing trafficking in the country, at a time when although there is certainly wider economic growth, this economic growth has not yet benefitted rural communities, or the mainly excluded Roma population.¹⁰⁶

GRETA continued to urge the Albanian authorities to tighten its ability to identify, and to ensure appropriate protection of children within Albania who are exposed to trafficking risk.

UNICEF reflecting on child protection in Albania points out that to protect their children, the Albanian society has to create a much stronger protective environment

¹⁰⁴ Eglantina Gjermania, Mary P. Van Hookb et. al.: Trafficking of children in Albania: Patterns of recruitment and Reintegration. In: Child Abuse & Neglect, page 943.

¹⁰⁵ Ibid, page 946.

¹⁰⁶ Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Albania, International Labour Office (ILO), page 31. 2003

for them. Such an environment would keep those children safe who are currently abused, neglected, exploited or violated. So far these children are not even noticed by the general public.¹⁰⁷

In March 2017, the Albanian parliament with a qualified majority, approved a new criminal justice for a children code.¹⁰⁸ This represents a vital step in the comprehensive reform of the Albanian justice system. It incorporates a significant conceptual shift from a *retributive criminalising system* to a *rehabilitative system* in relation to juvenile offending. Justice for child-victims and witnesses of crime has now been designed, and awaits promulgation into the judiciary, prosecutors and law enforcement systems by means of training.

The code is aligned with the UN convention on the Rights of the Child (UNCRC) and brings Albania up to international standards in terms of its legal instruments. Protection, access to education and rehabilitation for children who come in contact with the law, is now obligatory. The philosophy of the code is to support children into lives free of crime, stigmatisation or violence. The best interests of the child is through the UNCRC principles, comprised in that code. For the first time a particular piece of legislation dedicated to criminal justice for children in Albania, asserts that the detention of a child has to be as short as possible and an action only taken as a measure of absolute last resort. The code requires specially trained professionals involved in the justice process of children to handle the children's cases in as swift and efficacious manner as possible. The frequently traumatising court process is to be replaced through a procedure suitable for children, with free legal assistance and the presence of psychologists available for child victims and witnesses. Courthouses and sessions are now being adapted to become less intimidating to children. Safer and supportive environments are provided for them in the whole process of the challenge of delivering their testimony. Community-based rehabilitation services are included and this is a comprehensive departure from the previous approach.¹⁰⁹

Some have viewed this new code cynically as an expression of Albania's desire to be received into the courts of the EU. Regardless of the aspiration, if the code can be realised, addressing some of the endemic corruption and inefficiencies within the legacy of the former judicial processes pertaining to children, a paradigm shift will have been accomplished.

¹⁰⁷ https://www.unicef.org/albania/children_24008.html, 27.04.17

¹⁰⁸ UNICEF: PRESS RELEASE : Albania with a Criminal Justice for Children Code for the first time! March 2017, page 1.

¹⁰⁹ Ibid, page 1.

Antonella Scolamiero, UNICEF Representative welcomed the adoption of the code in the following address :

,On behalf of UNICEF, I would like to commend the Members of Parliament for demonstrating, with the adoption of the Code, their new vision for the system of criminal justice for children, a system that values education over punishment, reintegration over segregation, and protection of the child over re-victimisation [...].¹¹⁰

GRETA writes in its *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Albania 2016* : «GRETA urges the Albanian authorities to adopt measures to facilitate and guarantee access to compensation for victims of THB, in particular by: [...] Repatriation and return of victims of THB. »¹¹¹

In the following, GRETA explains that although the number of child victims amongst trafficking victims - especially of internal trafficking- has increased, there is no clear data from the statistics if any of those children have been formally identified as victims once they have passed into the National Referral Mechanism. In the period between 2012-2015 no child victims had been formally identified. Notwithstanding according to civil society and NGO reports, there were cases of forced marriages of girls from the Roma and Egyptian communities emerging in the system. Children are also exploited for forced begging and apprehended within street crime and narcotics as mentioned above, but nothing is officially registered.¹¹²

NGOs from Albania are contacted frequently by the Kosovan authorities with requests to take care of Albanian children, predominantly of Roma origin, who are detected begging in Kosovo and been transported back to the Albanian Border. NGOs criticise the lack of facilities at the borders to safely accomodate the children temporarily, whilst they are received and their onward requirements are assessed at the border when returned by the Kosovo authorities.¹¹³ In the period 2011-2015 no unaccompanied minors were reported by the General Directorate of Border and Migration. This was in direct contradiction to information gleaned from NGOs and neighbouring Embassies.¹¹⁴

To take account of the specific situation of the children, the Standardised Operating Procedures (SOPs) are providing a differentiated procedure for children's

¹¹⁰ Ibid, page 1.

¹¹¹ Report concerning the implementation Of the Council of Europe Convention on Action against Trafficking in Human Beings by Albania (Greta 2016), page 30.

¹¹² Ibid, page 6.

¹¹³ Ibid, page 26.

¹¹⁴ Ibid, page 26.

identification. There is a risk that the victim's family could be involved in their trafficking and exploitation, and so the criteria of identification has been adjusted to accommodate such compromised situations. The interviews carried out require appropriate facilities and methodology for the purpose of formal identification of the child.¹¹⁵

10 Victim Assistance.

What institution or organisation is responsible for RECEIVING children who are being repatriated to their country of origin? Are there LEGAL PROVISIONS in the country of origin to ensure that (repatriated) child victims of trafficking receive long-term care and protection?

With the second evaluation visit of GRETA in 2016, the only operational mobile team was run by the NGO *Another Vision*, carrying out outreach amongst vulnerable groups in Elbasan and surrounding areas. Other NGO collaborators are focussing on children in on-street situations, attempting preventative interventions with potential victims amongst them. Municipal child protection units and the local police are now becoming increasingly involved, and slowly are being trained in detection and procedural processes with the best interests of the child in view. Within two years of operation *Another Vision* has identified 33 potential child victims of THB, between 3 and 17 years of age. ¹¹⁶ In 2015, 15 child victims of trafficking forced into begging and labour were identified by a dedicated Task Force and municipal child protection units operating in Tirana. With identification starting to emerge through dedicated and trained teams, it is proposed that similar task forces be established for similar work in two other towns in 2016 -2018.¹¹⁷

GRETA 2016 initiated consultations urgently with destination countries with a view to putting into place effective mechanisms for identifying children at risk of being re-trafficked. , Effective reporting to the consular or diplomatic missions of Albania on such cases and the provision of adequate assistance and protection in accordance the Convention was in place. This included an urgent review of how the guardianship system for child victims was being applied and increased attention to be paid by the authorities to children who are trafficked by their parents or other family members. It also included the requirement that comprehensive risk assessments be conducted by the Albanian police and children's services before returning such children to their parents in Albania. Furthermore GRETA noted that it was vital for Albanian authorities to ensure that there is a shelter providing adapted services for child

¹¹⁵ Ibid, page 25.

¹¹⁶ Ibid, page 25.

¹¹⁷ Ibid, page 25.

victims of THB above 16 years of age, in line with the best interests of the child rather than seeing these children absorbed into adult-recovery accommodation.

The Ministry of interior is the responsible authority for implementing all the steps above. To clarify on the legal provisions for protection these include :

- Prevention activities (including strengthening the law); increasing control of Borders; awareness-raising activities; education and provision of information
- Training at local and national level, focusing on the most vulnerable / affected communities)
- Protection and reintegration of child victims of trafficking (which includes the legal framework, police forces, prosecution and legal procedures)
- Assisted voluntary return (based on best practices for identification, protection, and return to the country of origin of children)
- The Coordination of all the main actors both State, International and local NGOs.

Currently we do not hear of businesses becoming involved in this work of prevention, or the faith sector being explicitly mentioned. These are further wings of intervention which need to be deployed in the coming years to exert further pressure on areas of Human Trafficking exploitation as Albania moves forward in its prevention and protection work.

Housing

GRETA commended the shelters run by the NGOs *Different and Equal*, *Vatra* and *National Reception Centre for Victims of Trafficking*, who are providing accommodation for child victims of trafficking over 16 years. However there is only one shelter in the country which currently specialises in the reception and assistance of younger child victims of THB, run by the NGO *Another Vision*, based in Ebasan. The shelter is divided between two residences and can accommodate 34 children. The shelter provides assistance for children by a multidisciplinary team. Children are integrated (as per the recommendations of the Council of Europe Convention) as quickly as possible into the local school. There they receive support from their teachers tailored to their needs and extra teaching support is supposed to follow this procedure for the local education authorities. In co-operation with the regional authorities, older children are incorporated into vocational training. Envisaged as a

reintegration process, municipal child protection units are brought into the care and management mix of this exercise.¹¹⁸

Children in Institutional Care

The Human Rights Committee and the United Nations Committee of the Rights of the Child expressed in equal measure shared concern about the circumstances whereby children from poor families are routinely placed in institutions, due to the families' inability to provide for their needs. Furthermore children 'age out' at 15, and at that point are extracted from the institution, without any further support from the State. Their destiny is poverty, marginalisation and exclusion. Sadly, many will carry a legacy of mental health issues from having been institutionalised and at 15 years are exposed to potential abuse and exploitation.¹¹⁹

Albanian authorities have reiterated the indicated Instruction No.6 of 21 May 2014, which states that children can stay in their institutions (private or public) until they have reached the age of 18. Furthermore there is a clear movement by the authorities to work towards the de-institutionalisation of children. As a result, in 2015, 103 children left institutions and returned to their families. In the same year there were 67 adoptions – all part of a process of trying to place abandoned children directly into family environments. Local authorities are beginning to monitor and publish applications for foster care. There were 153 children placed into foster families across Albania in 2015.¹²⁰

Child protection units take the lead in locating families of identified child victims of THB. There are a range of somewhat cumbersome court proceedings taking time which are required to appoint a legal guardian for a child. As a matter of principle the preferred approach undertaken in Albania is to reunite the child with its family. This has raised some criticism from international Children's Rights groups who are concerned that as with violence against women, there is a cultural proclivity to downgrade charging abuse cases in preference to not disrupting the patriarchal household.¹²¹ However where it is clear that the child's parents are directly involved in an ongoing exploitative situation, the children are currently placed in orphanages. These children represent an extremely vulnerable group. It is a moot point as to how Child Marriage is to be viewed by the authorities, a cultural fact of life for considerable numbers of Roma, Egyptian and Albanian majority families living in remote locations in rural Albania.

¹¹⁸ Ibid, page 26.

¹¹⁹ Ibid, page 16.

¹²⁰ Ibid, page 16.

¹²¹ EASO Country Focus Report 2016 p39

Under pressure from a range of international actors and *Best Interests* principles now emerging from the UN and from the Council of Europe Conventions, there have been a number of innovations. The Council of Ministers' Decision No 573 of 24 June 2015, '*Standards for the work of the Child Protection Units*'; Joint Guideline No. 10 of 25 February 2015 '*Methods, forms of cooperation and intervention procedures to help children at risk for institutions and structures responsible for child protection*'; Guideline No 6 of 21 May 2014 '*The resettlement of children in public and private residential social care institutions*' have all emerged as public statements and legislative guidelines intended to improve care services for children run by child protection units, specifically those located in institutions.¹²²

The GRETA monitoring group of 2016 reiterated its concern that children were placed in institutions because of family poverty and inability to support them and alerted the Albanian authorities that they would like further progress and enhanced monitoring and investment into this component of children's welfare and rights in the next months, and certainly the immediate years before subsequent inspection.

The issue of children in institutional care will be covered in some depth in our report on the Ukraine, and reference has been made to the work of LUMOS based on some research undertaken by *Save the Children International* on the presence of children in institutions who are either unregistered, or with one living parent.¹²³ It remains an issue which troubles most Children's charities and is an area where ongoing work will be focussed by UNICEF, Save the Children, LUMOS and a number of counter trafficking agencies. However whilst there is a general desire to see children placed outside of institutions into well supported foster care, these processes are not yet in place, leaving many thousands still placed in a variety of state, NGO and faith-based institutions.

Child Marriage

Early marriages amongst Roma and Egyptian families reveal the importance of culture, tradition, specific values, morals and beliefs related to honour. Once a female reaches puberty Roma girls are considered ready to marry and must do so. If parents

¹²² Ibid, page 26.

¹²³ A more recent tally by the United Nations Children's Fund (UNICEF) pins the number at 2 million, UNICEF cautions that this is likely to be severely underestimated due to underreporting as "many institutions are unregistered, and many countries do not regularly collect and report data on children in institutional care."

The LUMOS claim that 80 percent of children living in an institution are not orphans, meanwhile, comes from a 2009 estimate from Save the Children, an international children's rights charity. The charity claims that "four out of five children in institutional care have one or both parents alive."

https://www.savethechildren.org.uk/content/dam/global/reports/education-and-child-protection/keeping_children_out_of_harmful_institutions_final_20.11.09_1.pdf

see that girls are dating they will be moved into marriage very rapidly. Arranged marriages can occur anytime between the age of 12 – 14 for girls, and boys from 14 – 16. Seldom registered are the children born outside of marriage and Roma marriages. Child marriages can take place in the Albanian majority families in remote mountainous areas, ‘where a patriarchal mentality meets poverty’ according to UNFPA. The Social Institutions and Gender Index, makes interesting reading for Albania showing many girls from the age of 13 leaving school in order to do domestic work and prepare for marriage. Boys also leave school at an early age but the SIGI report asserts that they go to work and marry at a much later age in their mid 20s or even in their early 30s.¹²⁴ There are a number of minors every year who run away from home in order to avoid arranged marriages and this may well stoke some of the popularity of the ‘lover-boy’ recruitment which is known to be a part of the general recruitment into the sex industry in the cities and trafficked sexual exploitation both domestically and internationally.

Age Identification – priority to minority

It is stipulated in Article 3 of Law No. 10347 on Protection of the Rights of the Child, that if a person’s age is not known -but there is a cause to believe that that person is not of majority- he/she must be treated as a minor until age is determined. There are instructions provided from the SOPs for determining the age of victims. In Albania currently these instructions are based on assessments of psychological maturity, physical appearance, statements made by the victim, the evidence of identity papers (if they possess any/ although the problem of forgeries is always present) . If the authorities are left with any doubts, a medical examination will be undertaken by a health care professional, if the examined person and the legal guardian agrees to it. Furthermore the Embassy and other competent authorities providing the victim’s origin will be contacted. If uncertainty concerning age persists, the victim has to be treated and protected as a child.¹²⁵

Hundreds of children of Albanian origin have been detected in the United Kingdom (UK) in recent years as potential victims of THB. The Albanian authorities have complained that there has been a deficit in information provided by the UK authorities. Certainly there is a lack of trust and co-operation between the judiciaries and prosecuting authorities of both countries.

The Albanian authority enquiries into its child victims in the UK and whether they have been formally identified as victims of THB in the country and their current locations are not adequately responded to according to Albanian sources. There have

¹²⁴ Social Institutions and Gender Index (SIGI) Country profile Albania 2014 pp 1-2 UNFPA Child Marriage in Albania (An Overview) October 2012 p4

¹²⁵ Greta 2016 report , page 27.

been conversations regarding opening a reception centre to accommodate identified child-victims in the UK. Albanians are interested in repatriation of these children but there are clear restrictions about returning children to places where they may be at risk of refoulement and re-trafficking.

Currently we are not in possession of any reports of returned children from the UK to Albania for the purposes of this report, though the steady presence of Albanian minors in the tally of National Referral Mechanism trafficking referrals in the UK is of considerable concern to UK law enforcement, Children's charities and the Albanian authorities.¹²⁶

11. GOVERNMENT POLICIES and ACTION PLAN for PREVENTION.

Has the government adopted a National Action Plan on Trafficking in Human Beings ?

Yes, almost a decade ago the introduction of Law No. 10347 of 2010 on the *Protection of the Rights of the Child* came into force in Albania. There are now several institutions tasked with protecting children's rights, and enhancing prevention. At the central government level, the National Agency for the Protection of Children's Rights is responsible for monitoring and co-ordinating central and local institutions. At the regional level, children's rights units are present in each of the country's 12 regions. At the municipal level, child protection units are tasked with assessing and monitoring the families of vulnerable children and co-ordinating the work between local institutions and NGOs in respect of vulnerable children, including victims of trafficking. However, the existing 200 Child Protection Units do not cover the whole of the country's territory and the effectiveness of the units was reported by GRETA to be hampered by limited technical, financial and professional resources.¹²⁷

In February 2016, as a result of a year's intensive work, a New National Action Plan was published.¹²⁸

The following institutions have been tasked with the implementation of the strategy, namely the Ministry of Internal Affairs, the Ministry of Finance, the Ministry of Health, the Ministry of Defence, the Ministry of Foreign Affairs, the Ministry of European Integration, the Ministry of Justice, The Ministry of Economic Development, Trade and Enterprise, the Ministry of Urban Development and Tourism, the Ministry of

¹²⁶ Ibid, page 26.

¹²⁷ GRETA report 2016 p10

¹²⁸ Under the Minister of Interior, Mr. Saimir Tahiri, - **THE NATIONAL STRATEGY ON THE FIGHT AGAINST TRAFFICKING OF HUMAN BEINGS AND THE TRAFFICKING OF CHILDREN 2014 – 2017 INCLUDING THE NATIONAL ACTION PLAN**

Education and Sports, the Ministry of Social Welfare and Youth, the Ministry of Energy and Industry, and the State's Intelligence Service.¹²⁹

The National Action Plan includes special provision for children, entitled *Protection of the rights of the child*. The strategy paper considers the obligations of the State in matters of children's rights as carefully worded in the *United Nations Convention on the Rights of the Child* (1989). It emphasises the following children's rights :

- The children's entitlement to special and non-victimising treatment.
- The children's right on treatment in line with their special rights and needs.
- The children's right to be treated in their own best interest.
- The children's right to be not discriminated.
- The children's right to be informed
- The children's right to confidentiality.
- The children's right to have own views.
- The children's right to be protected.¹³⁰

One discrete section of the Action Plan contains the measures needed to ensure the children's right on the provision of special protection.

GRETA had indicated in its report in 2011 that a large number of children are economically exploited and some are even forced to do hazardous jobs. Having regard for the framework of the World Day against Child Labour, the State Agency for the Protection of Children's Rights organised an awareness-raising campaign on 12 June 2015, in order to protect children from the crime of labour exploitation and to maintain admission to education. The event was carried out in co-operation with the Ministry of Education and Sports, ONAC, the International Labour Organization (ILO), USAID, the OSCE Presence in Albania and NGOs. The message of the campaign was : "No child labour and exploitation, but proper education."¹³¹

Since 2009 Albania installed the Freephone hotline ALO 116, in order to report child abuse. Callers to this number receive free advice and information especially about financial assistance and health care services. About 400 calls a day are received. Since its first four years of operation ALO 116 had received 95 calls concerning children at risk of trafficking. Further information from ALO 116 would be helpful to understand

¹²⁹ THE NATIONAL STRATEGY ON THE FIGHT AGAINST TRAFFICKING OF HUMAN BEINGS AND THE TRAFFICKING OF CHILDREN 2014 – 2017 INCLUDING THE NATIONAL ACTION PLAN, page 5.

¹³⁰ Ibid, page 14.

¹³¹ Report concerning the implementation Of the Council of Europe Convention on Action against Trafficking in Human Beings by Albania (Greta 2016), page 16.

how reporting of trafficking in children has assisted state investigation and interdiction of the challenge.¹³²

In spite of efforts in combatting human trafficking, GRETA remains of the view that the Albanian authorities need to strengthen their efforts considerably in the area of prevention of child trafficking. This to be achieved specifically through the provision of training for child protection professionals around the country so that they can be sensitised and fully informed of protection and identification issues arising from such cases.

Additionally, a higher degree of awareness through education for pupils of high and secondary schools should be provided. With up to 2,500 children estimated by the US Trafficking in Persons report living and working on the streets in Albania from Roma and Balkan Egyptian communities special attention should be paid to these communities and the children who are placed in institutions.¹³³ As the TIP report points out, these children are at high risk of forced begging, other forms of forced labour and girls are extremely vulnerable to sex trafficking.¹³⁴

In 2012, the Ministry of the Interior adopted regulations aimed at reducing the number of unregistered children. The Ministry of Foreign Affairs and the NGO Tirana Legal Aid Society (TLAS) undertook an agreement to speed up procedures for registering Albanian children born outside the country. However, the GRETA team in their 2016 review were informed that the number of unregistered children had increased in 2014, potentially as a result of Albanians living previously in Italy and Greece returning home with children born whilst away. Furthermore, though most women in Albania give birth in hospitals, (where there are formal procedures for registration of all new-born children). The number of women giving birth away from hospitals has been guestimated at several hundred. GRETA in its 2016 review, advised the Albanian authorities to persist in their efforts to register children, particularly those born outside maternity units or abroad as a way of mitigating childhood trafficking recruitment and risk.¹³⁵

12 IMPLEMENTATION AND MONITORING.

Is there one Ministry leading in developing and implementing National Policy responses to Child Trafficking?

The development of the Action Plan is under the custody of the Ministry for Internal Affairs, led by the National Coordinator of the Fight against Trafficking. This is the

¹³² Ibid, page 16.

¹³³ Ibid, page 17.

¹³⁴ US DoS, Trafficking in Persons report 2016 30th June 2016

¹³⁵ GRETA report 2016 p10

ministry to which GRETA as the responsible monitoring organisation for the Council of Europe Convention directs its requests for all forms of information around trafficking risks, prosecutions, preventative strategies and child protection.

About the Media:

The media in its investigative mode has been the means for reporting physical and psychological violence of teachers towards children in the pre-school and primary education systems and has assisted in raising awareness around disability in Albania [a surprisingly high incidence noted by Save the Children, with from a sample size of 13,0000 - 10% of children with at least on high-level difficulty in functioning development (sight, hearing, walking, speaking, memory, communication, self-control, relationship building, socialisation)] ¹³⁶

Data from the Albanian Media Institute (AMI) from 2002 indicate the Albanian Media was at that time fragile and dependent. The Committee for Protection of Journalists commented on the struggle of independent journalists with highly partisan politics, stalled economic development, and even personal security threats against journalists who asked too many challenging questions. According to the AMI, the public remained mistrustful of journalists. Media ability to democratise and inform the country was seen as limited.¹³⁷

Fifteen years later the circumstances appear little improved. The Albanian Media Institute reported in 2017 that the OSCE Representative on Freedom of the Media Dunja Mijatovic, condemned an attack on Elvi Fundo, an Albanian Journalist and director of Radio Best and the news portal Citynews.al. Fundo was beaten by unidentified assailants near a train station in Tirana and hospitalised. This attack was condemned by Prime Minister Edi Rama and the Union of Albanian Journalists and Audiovisual Media Authority. The attack underlines the risk of stepping 'out of line' by a journalist.¹³⁸

Albanian Media and the ethical media coverage of children:

The Albanian Media Institute has issued essential professional rules for ethical media coverage of children. The UNO Convention of the Rights of Children ratified by the Albanian government in February 1992 asserts that every child should enjoy the right to access appropriate information, alongside freedom of expression, freedom of

¹³⁶ Report on the situation of respect for Human Rights and Freedoms in Albania During 2017 Albania Helsinki Committee.

¹³⁷ <http://www.institutemedia.org/newsletter2002.html>, 13.05.17

¹³⁸ <http://www.institutemedia.org/>, 13.05.17

speech and the right to be treated as an individual with inalienable rights.¹³⁹ The Albanian Media Institute, as representative of the mass media in Albania seeks to bring unprejudiced coverage on issues affecting children. Supported by UNICEF, since 2006 the AMI has been generating an interactive series of fundamental rules pertaining to the ethical media coverage of children.¹⁴⁰ The following basic principles include:

- all persons under 18 are understood to be children.
- *Children's highest interests!*
When reporting on topics concerning children, journalists should consider first and foremost the rights and the interests of the children. They should bear in mind that reporting on children in difficult situations has to be done in a way, that avoids the exposing of their identity to the public, because unfair or inadequate reporting can endanger or negatively affect the future of the child.
- *Children have absolute right to privacy*
Neither the media nor other institutions have the permission to interfere with this right of privacy. The only exceptions are those cases in which the best interest of the child is realised through the disclosure of the child's identity, due to the current situation. An exception is not to be justified by the Public's right to know and always requires the consent of the child and his or her tutor.¹⁴¹
- *Fighting prejudices*
To fulfill its role in fighting stereotypes and prejudice in society, the media has to report about children and their families in a way that doesn't foster discrimination against different ethnicities, cultural, linguistic or social groups to which the children belong.
Furthermore media coverage has to work against the establishment of stereotypes on children and their families. Great sensibility has to be required to avoid the generation of an image that children of certain minorities are victims of their communities.¹⁴²
- *Professional, complete, and accurate reporting of events*
The events involving children, although the identity and interest of the child has to be protected, should be reported in their actual context. The full analysis of the reasons and the scrutinising of each element has to be considered. To cover a report about children, the minimum standard of

¹³⁹ Basic Professional Rules: For an Ethical Media Coverage of Children, Albanian Media Institute, page 1. 12.05.2017.

¹⁴⁰ Ibid, page 1.

¹⁴¹ Ibid, page 1.

¹⁴² Ibid, page 1-2.

information should incorporate at least two different sources. The child involved should never in any way be endangered.

- *Media serving the children*

All resulting products of media should attend children's wellbeing and growth into responsible actors of a democratic society. When broadcasting or publishing, the respective media should take into consideration the consequences for the development of the children, if they have access to their products. The publication of media materials, that convey positive examples of and to children, should be supported. Criminal offences should be covered in the service of the public interest and in avoidance of sensationalism.

When producing programmes and publishing sections for children, the Albanian media should also take into consideration the interests of the cultural and ethnic minorities living in the country.

The Public broadcaster should broadcast daily a programme for children of minorities in their language.

- *Child participation*

Children should receive media opportunity to express their opinions freely. This includes the reflection of children's thoughts regarding the developments that influences their own welfare, personal growth and development. Through the media, the participation of children in public debates concerning healthcare, education, environment or urban developments should be granted.¹⁴³

This gives our team in Albania plenty of scope to reflect on how Roma, Balkan Egyptian minorities, Street Children and Children living in highly fragile locations (as on refuse tips, abandoned army barracks as has been indicated in the Albanian Helsinki Committee report) and those trafficked, sexually exploited, or recently repatriated from Kosovo, Greece and Italy are reported. It has been beyond the remit of our desk researcher to be able to follow how the Albanian media covers such stories.

The publication of *The National Strategy on The Fight Against Trafficking of Human Beings and The Trafficking of Children* was the fruit of the work of the National

¹⁴³ Ibid, page 2.

Coordinator for the Fight Against Trafficking in persons, under the special auspices of the Minister of Interior, Mr. Saimir Tahiri.¹⁴⁴

« The achievements notwithstanding, the Government of Albania acknowledges the need to enhance the anti-trafficking response. The focus of the 2014-17 Strategy and NAP (National Action Plan) is on:

- *Monitoring and evaluating of the anti-trafficking response and its review in 2017 ».*¹⁴⁵

The following institutions have been tasked with the implementation of strategy paper: the Ministry of Internal Affairs, the Ministry of Finance, the Ministry of Health, the Ministry of Defence, the Ministry of Foreign Affairs, the Ministry of European Integration, the Ministry of Justice, The Ministry of Economic Development, Trade and Enterprise, the Ministry of Urban Development and Tourism, the Ministry of Education and Sports, the Ministry of Social Welfare and Youth, the Ministry of Energy and Industry, and the State's Intelligence Service. The decision entered into force following its publication in the Official Gazette and was signed by the Prime Minister Edi Rama.¹⁴⁶

13. GOVERNMENT AGREEMENTS.

Are there any Government BILATERAL/MULTILATERAL AGREEMENTS in force on the issue of Human Trafficking?

Agreements on the protection and support of child trafficking victims have been signed between the governments of Albania, Greek, Montenegro, Kosovo and the United Kingdom. Nevertheless, no evidence could be found of particular agreements between Albania and destination countries for cases of unaccompanied children. On the reception procedures and the support to be offered to unaccompanied returning Albanian children, the State Police and State Social Service have signed a joint order on March 2014. After the detection of an unaccompanied child, following the official procedure, the Albanian border police has to immediately inform the Regional Directorates of Border and Migration (DBM), who directly notify the central DBM. The DBM is responsible for the collection of information about how the child could come into the country of destination unaccompanied, on finding the child's family and organising transport for the child or his or her family. Before the reception

¹⁴⁴ THE NATIONAL STRATEGY ON THE FIGHT AGAINST TRAFFICKING OF HUMAN BEINGS AND THE TRAFFICKING OF CHILDREN 2014 – 2017 INCLUDING THE NATIONAL ACTION PLAN, page 3.

¹⁴⁵ Ibid, page 12.

¹⁴⁶ Ibid, page 5.

of the child, the child's family has to be approached with the support of the regional social worker, to sign a declaration of 'child acceptance'. In exceptional cases, where the family environment is not appropriate for the returning child, the child can be placed in a residential institution.¹⁴⁷

To ask for the child's approval to return is the responsibility of the countries of destination and this is prior to any subsequent petition sent to the State Police. Applications for family tracing are not to be conducted before the child's assent to return. There are no cases documented in which children have not agreed to the search for their family, but this is an area where children's rights' lawyers increasingly will become involved in looking at how a child's best interest is to be maintained and realised under the constraints of immigration and policing procedures.¹⁴⁸

The overall responsibility for any returned child victims of trafficking lies with the anti-trafficking unit of the Ministry of Internal Affairs. Trafficked children can be placed at the National Reception Centre for Victims of Trafficking, which offers accommodation, psychological, legal, health and rehabilitation assistance as well as protection for adult victims and/ or their children. The centre currently is mainly an emergency reception centre without specialist reintegration services for traumatised children as are most survivors. However there is one specialised shelter, previously mentioned, run by a local NGO in Elbasan (*Tjeter Vision*) that offers all the requisite assistance for children. The joint order from 2014 bypasses the Child Protection Units, which are the responsible authorities for all child trafficking cases in local government units.¹⁴⁹ The order does not consider deported children who are returned frequently by countries of destination.

When looking at children returning from Greece and Kosovo, the processes need real attention. Currently there is no regulatory mechanism for unaccompanied children in Kosovo. If children are returned from Greece, frequently very short notice of their imminent return is provided.¹⁵⁰ The international Organisation for Migration (IOM) has pointed out the need for better categorization and identification of the diverse backgrounds of unaccompanied children being returned and now living in Albania. Furthermore the IOM recommends some clear interventions to improve matters, including a comprehensive national reception centre to serve Albanian and foreign

¹⁴⁷ Child Notice Albania , 2015, UNICEF, page 80-81.

¹⁴⁸ Ibid, page 81.

¹⁴⁹ Ibid, page 82.

¹⁵⁰ Ibid, page 82.

unaccompanied children alike, with strong protocols, excellent data management and the full panoply of recovery and integration services required.¹⁵¹

14. LEGAL FRAMEWORK.

Is the legal definition of a “CHILD” in line with the definition of the CONVENTION on the Rights of the Child?

In Albania, children reach the age of majority at eighteen years. At 14 years, children in Albania can undertake legal actions such as being a member of a social organisation, possessing their earnings and deposit savings, as long as their parents or legal guardian are in agreement. However children below the age of 14 years are represented by their parents or legal guardians in all legal actions.¹⁵²

Thus far the legal framework is in line with the UN Convention on the Rights of the Child, which states that a person below the age of 18 has to be defined as a child, unless the laws of a specific country set the age of majority younger.¹⁵³

According to the Articles 98 and 99 of the Labour Code of Albania, employment can undertaken at the age of 16 years. Children between 14-18 can be admitted into employment during school vacations, as long as this is categorised as ‘light’ work. Light work is defined by the Council of Ministers who also establish the maximum working hours.¹⁵⁴

When Romanian, or Balkan Egyptian children are found picking litter on refuse dumps, or working as street cleaners or house servants, this becomes the challenge for the labour code. Technically they will be in contravention of the law. The challenge then is who cares sufficiently to do anything about the situation?

The pre-university education system is built-on three levels : preschool, basic and secondary education. The three levels of education are covered from public and private institutions. The legal age for compulsory education starts at 6 and ends at 16 years. For children with special needs there is provision to stay in education until the age of 19. Education for children in custody, detention, prison or refugee centres, or for children ensnared in ‘blood feuds’ is governed by ministerial decisions. In theory, children in residential centers for victims of domestic violence are fully integrated into local schools.¹⁵⁵

¹⁵¹ Ibid, page 82.

¹⁵² Ibid, page 50.

¹⁵³ The United Nations Convention on the Rights of the Child , 20 November 1989, page 4.

¹⁵⁴ National law and policies on minimum ages – Albania, Source: Initial report: CRC/C/11/Add.27, 5 July 2004

¹⁵⁵ Child Notice Albania , 2015, UNICEF, page 47.

With regard to joining the army, the legal age for service and training in the national armed forces is 19 years of age. Recruitment practices are aligned to NATO member country standards, which prohibits compulsory active military service in any of the alliance. Consequently, since adoption into NATO, September 2009, no Albanian national below the age of 19 has been recruited for compulsory active military service and there is no enrolment into military schools. However according to some media reports, there have been at least 30 Albanian children who have gone to Syria with their parents to take part in armed conflict. Jihadists claim that several men have migrated to join the Jihad in Syria. Young children are attending religious schools. Older boys are engaged in the fighting and older girls are taking care of the wounded and married off to Jihadists. This is an issue which will continue to be the subject of more research as European recruitment into the Syrian conflict and Daesh recruitment develops. The revelations so far have been occasioned by the Optional Protocol reporting on the Involvement of Children in Armed Conflict which was ratified by Albanian authorities in 2008.¹⁵⁶

Underage Marriage and the Sexual contract

By virtue of the Criminal Code, sexual intercourse with a child younger than 14 years is a criminal offence, nominally punished with not less than 20 years of imprisonment (article 107/a). Anyone forcing sexual intercourse with a minor between 14 and 18 years faces imprisonment of 5 to 15 years (article 101). However there are challenges around the way consent is interpreted as there is no protection for children between the age of 14 and 18 years if consent has been deemed to be given. The Balkan Epidemiological Study on Child Abuse and Neglect (BECAN) study of 2013 reports that more than 11 per cent of children reported have experienced sexual violence during their lifetimes and over nine per cent reported that they had been violated in the past year.¹⁵⁷ This is a truly appalling figure.

Albania lacks accurate statistical data on marriages, birth, divorce and maternal and child health. There is a marked deficit in research on child marriage, particularly around when sexual intercourse is initiated along with the age when the contract was entered into.¹⁵⁸ We have already discussed how early marriages are prevalent in the Roma communities. Along with other Albanian nationals living in conditions of poverty, social exclusion, geographical isolation, emigration, and absence of education for girls, all provide a vital context for child marriage and risk of trafficking violations.¹⁵⁹ In data collected in 2011, 13.6 per cent of Egyptian girls and 31 per cent

¹⁵⁶ Ibid, page 69-70.

¹⁵⁷ Ibid, page 70.

¹⁵⁸ Ibid, page 70.

¹⁵⁹ Ibid, page 70-71.

of Roma girls between 13 and 17 years are married.¹⁶⁰ Unlike in the Roma population, mostly it is girls who are affected by child marriage. Typically they become engaged between the ages of 13 to 15 years. In contrast, the main population in 2013 had the average age for marriage of women 24.9 and men 30.5 years.¹⁶¹ There is currently inadequate information to clarify the level of force involved in these child marriages, but it is clear where the International community stands with the practice of child marriage in the intentionality of UNICEF to see this aspect of children's rights violation addressed more substantially by 2030.¹⁶² There has been a number of detected trafficked victims who were forced into such marriages. These have come to light mainly with girls being forced into prostitution after their marriage, whether from their husband's acquaintances, work relations or his wider family, as they became part of his patriarchal 'goods' for disposal.¹⁶³ In the 2014 TIP report, the US Department of State reported that several Albanian girls had been subjected to forced labour or sex trafficking after 'contrived' marriages. The NGO, *Different and Equal*, assisting trafficking victims, reported, that six per cent out of 77 trafficking cases assisted by them in 2013, had been victims of forced marriages.¹⁶⁴

For the identification process of children in street situations, the government of Albania set up Field Teams between 2015 – 2016 in each of the affected municipalities. There were 24 active field-teams in those municipalities in July 2016, to monitor the most affected areas to directly identify concerned children.¹⁶⁵ In the course of implementation of the legislation on the National Action Plan for Children in Street Situations and Child Protection in Albania, several of the services supporting families with children in street situations insist that the registration of each child is incomplete or recorded as unregistered « *in the National Register of Civil Status Completing the necessary documentation and following the appropriate procedures.* »¹⁶⁶ According to the Convention on the Rights of the Child Article 7, children have a right to a name, to acquire nationality and if ever possible, the right to know and be cared for by their own parents. The registration in the Civil Status

¹⁶⁰ Ibid, page 71.

¹⁶¹ Ibid, page 71.

¹⁶² For the first time, target 5.3 in the Sustainable Development Goals, aims to "eliminate all harmful practices, such as child, early and forced marriage". This is an important tool to drive action, hold governments to account for their commitments to girls, and track progress on ending child marriage globally.

¹⁶³ Ibid, page 71.

¹⁶⁴ Ibid, page 71.

¹⁶⁵ National Action Plan "On identification and protection of children in street situation 2015-2017" ANNUAL REPORT JULY 2015 –JUNE 2016, page 9.

¹⁶⁶ Ibid, page 10.

centre is the requirement to all governmental services. In the period July 2015 and June 2016, 11 children in street situations have been registered.¹⁶⁷

UNICEF Albania estimated there was a 98.6 per cent of birth registration in the years between 2005-2012.

Birth registration is a continued issue for children born either outside health-care institutions or abroad. In the last case, two different administrative and legal systems are involved for children born to parents who knowingly provide false data and abandon their children, or who do not register their children at all.¹⁶⁸ The Civil Status law from 2009 offers financial incentives of approx 50 US Dollars to mothers who register their children in Albania within 60 days of childbirth or if born abroad within 90 days. The United Nations Committee on the Rights of the Child (UNCRC) „urged Albania, [...] that registration is made free of charge.“¹⁶⁹

15. LEGISLATION .

Does the country's legislation criminalise Human Trafficking?

The National Coordinator Dr. Elona Gjebrea (Hoxha) for the Fight Against Trafficking in persons, under the special auspicious of the Minister of Interior, Mr. Saimir Tahiri undertook intensive work to publish a strategic document to combat human trafficking, entitled THE NATIONAL STRATEGY ON THE FIGHT AGAINST TRAFFICKING OF HUMAN BEINGS AND THE TRAFFICKING OF CHILDREN 2014 – 2017 INCLUDING THE NATIONAL ACTION PLAN. Dr. Gjebrea (Hoxha) identifies trafficking in persons as a real challenge to the human and social value system and a flagrant violation of fundamental human rights like freedom and dignity.¹⁷⁰ In the introduction to the National Strategy document above, the National Coordinator points out, that trafficking in persons is a serious crime.¹⁷¹

The Albanian government displayed great interest in being fully in line with the Palermo Protocol in passing the law no. 91188, dated on 02.12.2004 "On some amendments to Law no. 7895, dated 27.1.1995 " Criminal Code of Albania "amended " Article 110/au changed as follows: « *Trafficking in persons* " shall mean the recruitment, transportation, transfer, harboring or receipt of persons by means of threat or use of force or other forms of coercion, of abduction, of fraud, malfeasance or benefit from the social, physical or psychological, or giving or receiving of payments or benefits to achieve the consent of a person who controls another person, for the

¹⁶⁷ Ibid, page 27.

¹⁶⁸ Child Notice Albania , 2015, UNICEF, page

¹⁶⁹ Ibid, page 29.

¹⁷⁰ THE NATIONAL STRATEGY ON THE FIGHT AGAINST TRAFFICKING OF HUMAN BEINGS AND THE TRAFFICKING OF CHILDREN 2014 – 2017 INCLUDING THE NATIONAL ACTION PLAN, page 3.

¹⁷¹ Ibid, page 8.

purpose of prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or similar forms of slavery, putting use or transplantation of organs and other forms of exploitation. The elements of Trafficking in Persons as defined in the Palermo Protocol are divided into 3 groups:

1. Action (activity, process): the recruitment, transportation, transfer, harboring or receipt of persons;

2. Means: threat, use of force and other forms of coercion, fraud, obtaining by force, devising or abuse of power or of a position of vulnerability or the giving or receiving of payments or benefits;

3. The forms of exploitation: sexual exploitation, for forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs. »¹⁷²

The legislation does not mention illegal adoption.

In 2004 the Criminal Code (CC) of the Republic of Albania entered into force in a consolidated version and recognized human trafficking as a criminal offence. Different to the earlier version dated 27.1.1995, it points out that abuse of office would be a criminal offence too. It also improved its perspective on the protection of children's rights, as it explicitly condemns the exploitation of children through begging, labour and other forced services. Criminal Acts like these are punished by imprisonment for a period up to one year and a monetary fine between 50, 000 to 1 million lek which is equivalent to 284 – 5,683 British Pounds. In the same Code, the sale of a child for the removal of organs or illegal adoption with the intention of profit is regarded as a crime. These criminal offences are punished by imprisonment of up to 7 years.¹⁷³

Law no. 144 of 2013 identifies cross– border trafficking as well as internal trafficking as criminal offences and therefore puts an end to a legal dispute through the implementation of internal trafficking cases into the law as well.¹⁷⁴

UNICEF referred in a press release in Tirana, on 4 Thursday 2010 to the approval of the '*Law on the protection of the Rights of the Child*' by the Albanian parliament with 131 votes in favour.. According to UNICEF there were neither objections nor abstentions of members across the entire political spectrum :¹⁷⁵

¹⁷² International Journal of Education and Research Vol. 1 No. 12 December 2013 1 Human trafficking and the Albanian legislation Alisa Biçoku (PhD), page 3.

¹⁷³ Country Information and Guidance Albania: Trafficking, Home Office, 09 September 2015, page 12.

¹⁷⁴ Ibid, page 13.

¹⁷⁵ UNICEF MEDIA RELEASE : Albanian parliament say yes to the Child Rights Law to ensure that no child suffers from deprivation, discrimination, exploitation and deprivation of its rights! Tirana, 4 Thursday 2010

*« UNICEF is particularly pleased that the law was approved with the full support of members across the entire political spectrum – which is in keeping with the principle that "the best interests of the child" have to prevail".
« (Accentuation through the author)¹⁷⁶*

On the otherhand, UNICEF stated in it's report *Child Notice Albania, 2015* :

*« The Albanian Constitution does not refer to the best interests of the child, but
the Child Rights Protection law specifies that they are the primary concern in all
decisions about children, including those of administrative authorities. The best
interests principle is fully incorporated in the Family Code.»¹⁷⁷*

The following Report explains that the United Nations Committee on the Rights of the Child (UNCRC) expressed concern in 2012, that the best interest of the child is not upheld in major pieces of legislation, such as "The Criminal Code", "The Code of Criminal Procedures" and "The Code of Administrative Procedures".¹⁷⁸

While in 2013 "The Criminal Code" was changed and now upholds in principle the best interests of the child, nevertheless the Human Rights Council of the UN General Assembly documented its recommendation to Albania in 2014, that it should improve the general legal framework in the juvenile justice system related to protection of the children and the socially excluded such as people with disabilities.¹⁷⁹

The Family Code guarantees that the child has the right to be heard from any court, in all decisions and processes concerning him/her. Children from the age of 10 have the right to express their own opinion in adoption procedures and once they reach the age of 12, their consent is required. It is often very difficult for judges to put the principle of the best interest of the child into practice, especially in cases of dissolution of marriage. Further concern was expressed from the UNCRC concerning the disregard of the best interest of the child principle in adoption procedures, if the child is in conflict with the law. According to their age and level of maturity, the Family Code is stipulating the child's right to know his or her family history and biological parents, without the provision to make this right implementable. Pertaining to administrative procedures that concern children, the right to be heard is not accredited. It can only be performed in criminal lawsuits through children's legal

¹⁷⁶ Ibid.

¹⁷⁷ Child Notice Albania , 2015, UNICEF, page 38.

¹⁷⁸ Ibid, page 38.

¹⁷⁹ Ibid, page 39.

representatives. Basically, there is no option for children to be involved in the decision-making process.¹⁸⁰

Through the Family Code, equal rights and obligations are provided to marriage partners, in order to grant protection from a threatening social phenomena.¹⁸¹ It makes forced marriage without free consent less attractive. Article 147 'compensatory contribution' and Article 153 'the right to use the apartment' are very important protection rights for women and their children.¹⁸² Alisa Biçoku observes regarding Albanian criminal legislation that new developments have taken place through the Albanian commitment towards international acts. She points out, that the criminal legislation in matters of trafficking in girls or women, are fully compliant with the essential definitions of the Palermo Protocol.¹⁸³

Still, the National Report on the Situation of Children's Rights in Albania 2013-2014 is critical, stating that the existing legal provision should be reviewed. Furthermore it demands harmonisation with the Law on Protection of Children's Rights and other standardised international instruments on children's rights. Moreover stronger efforts are claimed to guarantee the principle of the children's best interest, which according to the National Report is not integrated appropriately nor applied consistently in all procedures, relevant policies, programmes or respective projects which are related to children or affect them in any way.¹⁸⁴ Still the Albanian Family Code points out that it is the parents duty to protect their children's individual and property rights as well as taking responsibility for their physical and mental upbringing, education, health and nutrition.¹⁸⁵ In case of divorce, those duties should be carried out by the parent who is designated as legally responsible for the child's upbringing. The other parent does not lose his or her parental right, but should exercise it in the manner defined by the divorce law. With regard to the upbringing of the child of divorced parents, a parents should share all responsibilities continuously and in all cases in the best interest of the child.¹⁸⁶

Article 98/1 which is defining the 'Labour Code' forbids child labor for children under the age of 16 years. According to article 98/2, children between the ages of 14-16

¹⁸⁰ Ibid, page 39.

¹⁸¹ International Journal of Education and Research Vol. 1 No. 12 December 2013 1 Human trafficking and the Albanian legislation Alisa Biçoku (PhD), page 6.

¹⁸² Ibid, page 6.

¹⁸³ Ibid, page 7.

¹⁸⁴ National Report on the Situation of Children Rights in Albania 2013-2014, page 18.

¹⁸⁵ Dr. Cand. Irisi Topalli , in : THE ALBANIAN FAMILY CODE -A STEP FORWARD IN THE DEVELOPMENT OF FAMILY RELATIONS European Journal of Research in Social Sciences European Journal of Research in Social Sciences Vol. 3 No. 5, 2015, page 65.

¹⁸⁶ Ibid, page 66.

years may work in jobs free of health risks during summer/school holidays or can participate in vocational training. Easy jobs of a socio-cultural kind are also legal according to article 102. If authorised through the Labour Inspectorate, children between the age of 16 to 18 years are allowed to work in simple employment, referred to article 99. But the law has failed to define what is permissible holiday work for children. The number of hours or work conditions that would make employment acceptable is not defined in any way.¹⁸⁷

At least children at the age of 16 and 17 years are restricted from work which is performed during the night or deemed to be harmful to health or growth and can only be employed in easy jobs, without further definition as to what that means exactly. The minimum age for hazardous work is set at 18 years by the Labour Code and specifies jobs considered hazardous for children below the age of 18. However, that does not include children's jobs carried out by family members. That leaves those children unprotected from hazardous work. The Labour Code is applicable to contractual employment and that leaves all working children without a contract of employment totally unprotected.¹⁸⁸

The ALBANIA ALTERNATIVE REPORT to the Optional Protocol of the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, points out that the changes to the Criminal Code from 2008 could not achieve their requested outcome. Even though under the new criminal provision the exploitation of children for the production of pornography, the sale of children and child abuse were criminalised, the justice system has failed to hold the offenders responsible. Shockingly, the new amendments of the Criminal code did not even make the possession of child pornography a criminal offence and therefore failed to criminalise one of the most important elements of the pornography of children. Consequently the risk for child abuse images being used by offenders is not prevented, but encouraged through a safety zone, which was lawfully created for them.¹⁸⁹

The exploitation of children through sexual abuse, their use in the production, publication or distribution of pornographic materials, is prohibited by the Criminal code. Some changes in the Criminal Code from April 2013 enable the justice system to pursue the forced misuse of children as a criminal offence. Nevertheless, the

¹⁸⁷ Child Notice Albania , 2015, UNICEF, page 75.

¹⁸⁸ Ibid, page 75.

¹⁸⁹ ALBANIA ALTERNATIVE REPORT to the Optional Protocol of the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography , Tirana, January 2012, page 7.

European Commission assessed the measures undertaken by the Government of Albania in matters of child labour and exploitation as inadequate.¹⁹⁰

A couple of international treaties are covering the rights of children on the move. The most important one is the Convention on the Rights of the Child, from 1989 (hereinafter: CRC). It is the most prevalent ratified human rights convention, which is fundament to international protection of the rights of the child, along with the Optional Protocol on Child Prostitution and the Sale of Children, or the Optional Protocol on the Involvement of Children in Armed Conflicts.¹⁹¹

Through the CRC, minimum standards are set related to the treatment of any child within their national territories, which cannot be ignored by the States. Discrimination based on immigration status nationality or statelessness are not tolerated (Art. 2 CRC). Consequently, States are obliged to treat children on the move as any other child in the country, facilitate them gaining identical access to their fundamental rights as children. Albania has ratified this convention. The Law on the Protection of Children's Rights (2010), a certain national law, safeguards that the fundamental child rights (as previously mentioned) are protected to include many of the crucial issues of the CRC.¹⁹² Articles about the rights of the child on move are as follows :

- In Article 7 the right of birth registration, nationality, maintain identity and receive parental care whenever it is possible, is warranted.
- In Article 9, the right of the child to move into another country in terms of family reunification, is recognized.
- In Article 10 the child's right to be returned into the origin country, if not accompanied, is recognized.¹⁹³

Additional Articles refer to other rights such as protection from various forms of abuse, neglect or exploitation, the right to social protection are covered as they are risks for children on the move.

Together with the principle of non-discrimination, other core-principles included in the CRC should always be afforded to all children on the move. States who confirmed this convention, have to safeguard every child from all forms of neglect, violence, abuse and exploitation. According to Article 19, children on the move have the right of protection from being physically or mentally hurt, abused or neglected. Article 34

¹⁹⁰ Child Notice Albania , 2015, UNICEF, page 76.

¹⁹¹ Children on the Move in Albania Response of Child Protection System to Their Needs Situational Analysis, TIRANA, November 20, 2014, page 19.

¹⁹² Ibid, page 19.

¹⁹³ Ibid, page 19.

points out on the necessity of protection from all forms of sexual abuse and exploitation, as well as (Article 35) the conservation from abduction, sale of or trafficking, together with any other form of child exploitation that could be damaging to a child's welfare in any way (Article 36), such as inhuman or degrading treatment and punishment (Article 37).¹⁹⁴

Unaccompanied and separated children are often victims of degrading or abusive treatment, neglect and punishment. Therefore they are in need of recovery and reintegration, which is granted to them through Article 39. The first principle in all considerations concerning a child, during all stages of the movement, has to be the best interest of the child, whether it is about short or long-term solutions (Article 3, CRC). That interest has to be respected in all activities concerning children, whether undertaken by public or private institutions, legislative bodies or legal administrative organs.¹⁹⁵

The situational analysis about Children on the move in Albania, undertaken by the Mario Project, stresses the importance of decisions and protection measures for children that need to be embedded in a comprehensive and joined-up process, devoted to the best interests of the children.¹⁹⁶ Article 22 of the Convention of the Rights of the Child, (CRC) demands that State Parties should take adequate measures to guarantee special protection and support to a child on the move, who is in need of international protection according to international human rights and legal humanitarian instruments.

To realise the enforcement of the 'Rights of the Children on the move', the General Comment No 6 from 2005, is of particular importance. It was published by the Committee for the Right of the Child, which is an independent body in charge of monitoring the implementation 'On the Treatment of Unaccompanied and Separated Children Outside Their Country of Origin' of the CRC, by the parties of its States.¹⁹⁷ Through the CRC, other international human rights conventions are consolidated, that are for the protection of wider human rights and fundamental freedoms, which apply to children on the move. Among these are the following :

- The United Nations Convention Relating to the Status of Refugees, from 1951, which is accompanied by the Protocol on the Refugees Status 1967 ;
- The UN Convention relating to the Status of Stateless Persons, from 1954 ;
- The Convention on the Reduction of Statelessness from 1961 ;

¹⁹⁴ Ibid, page 19.

¹⁹⁵ Ibid, page 19.

¹⁹⁶ Ibid, page 20.

¹⁹⁷ Ibid, page 20.

- The International Convention on the Elimination of All Forms of Racial Discrimination, from 1965.¹⁹⁸

Albania has confirmed much of the most important international human rights instruments relating to children on the move. However, significantly the Albanian legislation does not accredit 'children on the move' as an umbrella category. The key laws and core strategies in this context are summarised in the following.¹⁹⁹

The latest and most important Albanian Law, is the Law No. 10347, which was approved in November 2019 on the 'Protection of the Rights of Children', which condenses the legal framework for implementing reasonable mechanisms at central and local levels. This is to guarantee respect for child rights and safety from all forms of abuse in compliance with the UN Convention on the Rights of the Child. To define the role of all ministries and its actors in the conversion of this law, bylaws have been drawn up, as cited below:²⁰⁰

- *'On types and the ways of exchange and elaboration of the information and statistical data required by the Agency and by the responsible state structures at central and local level',*
- *'On the procedures related to monitoring and the establishing of sanctions by the State Agency for Child Rights Protection',*
- *'On Coordination mechanism of the work between public authorities responsible for the referral of cases of children at risk and the way to proceed it',*
- *'On the cooperation between institutional mechanisms on child rights protection and non-profit organisations'.²⁰¹*

16. LAW ENFORCEMENT.

How many child-trafficking crimes have been recorded (by police)? Under investigation? Convicted ? Prosecuted in the country?

In 2015 the Serious Crime Prosecution office reported 25 investigations concerning human trafficking suspects in comparison with 39 suspects in 2014. The state police undertook investigations concerning 90 suspected traffickers during this period. As mentioned above and critiqued by GRETA's country visit in 2016, the Albanian government didn't disaggregate data to illustrate its efforts across the different

¹⁹⁸ Ibid, page 20.

¹⁹⁹ Ibid, page 21.

²⁰⁰ Ibid, page 21.

²⁰¹ Ibid, page 21.

sectors of sex trafficking, organ trafficking, street criminality and forced labor. In 2015, 15 defendants were prosecuted, a decrease from 18 prosecuted in 2014.²⁰² There were 11 traffickers convicted in the courts, an increase from nine in 2014. All convicted traffickers were sentenced to between six - seventeen years. Although the prescribed minimum penalty is eight years in prison, three of the convicted traffickers received less than the minimum penalty. There are two laws applied - those aligned to trafficking and those in 'exploitation of prostitution.' The latter is currently deemed a lesser crime and the authorities continue to prosecute some traffickers apprehended for sex trafficking offences.²⁰³ Exploitation of prostitution is punished with prison sentences between two to five years, though under aggravated circumstances the punishment can go up to 15 years. Due to the fact that the investigation and prosecution process is easier if the lesser charge is applied, the authorities frequently opt for the milder penalty.

Further investigation revealed that amongst the judiciary there are some who only recognise cases of trafficking if cross-border movement has been involved. At the southern border between Albania and Greece, border police do screen for trafficking indicators those crossing in irregular and mixed migration. In September 2015, the government developed an eventuality plan in response to the surge in the number of migrants crossing through the Greek borders. This stipulated the screening of any migrant for trafficking indicators.²⁰⁴ This has steadily enhanced the training of judges and prosecutors since 2015. Nevertheless, due to high rates of turnover amongst police officers, there needs to be continuous training in detection and protection for victims of trafficking. The Albanian police participated in two multi-national law enforcement operations, which led to the arrest of 10 Albanian suspected traffickers.²⁰⁵ In the same year there were no numbers reported for child trafficking which clearly is a deficit in data management and detection.

Information collected from the European Observatory for Children's Rights, observed that between 2014 and 2016 Albania had approximately 69,165 people across its borders in 2014 and 65,935 in 2015.²⁰⁶ According to Eurostat data, the highest numbers of asylum-seeking requests in the EU, were recorded during these years. By 2016 the numbers of asylum requests had dropped by 63%. From all recorded cases for 2016, Germany represents the most preferred country of destination by far.

²⁰² US Department of State : Office To Monitor and Combat Trafficking in Persons 2016 Trafficking in Persons Report Report ALBANIA: PROSECUTION

²⁰³ Ibid.

²⁰⁴ Ibid.

²⁰⁵ Ibid.

²⁰⁶ ALBANIAN RETURNED MIGRANTS: A CHILD FOCUSED OVERVIEW OF DATA MANAGEMENT November 2016, UNICEF, page 1 – 2.

34% of the asylum-seeking requests received across Europe in 2015 were for children. 20% of those children were under 13 years. Unfortunately Eurostat data does not cover the movement of families and their children across different EU countries, so that double counting cases are entirely possible. It is challenging to identify children as they are moved across countries and returned to countries of source. In 2016 through its network of local collaborators, the Child Rights Observatory together with UNICEF in Albania investigated the identification and collection of data-processes undertaken in 12 regions in Albania regarding returned migrants including families with children.²⁰⁷ The report concluded that available data was fragmentary. It strongly recommended further comprehensive development at national, regional and local levels to collect more accurate segmented data on all issues pertaining to unaccompanied minors and families in migration in the future.²⁰⁸

Table: UASC [Unaccompanied Asylum-Seeking Children] from Albania in the UK.

2013		2014		2015	
Albania	154	Albania	341	Albania	413

²⁰⁹

At the end of June 2016, the applications of asylum seeking children increased by 41% to 36,465 cases. Since June 2004, this is the highest number of applications Received with ²¹⁰ 17% from Albania.²¹¹ The countries from which the UASC originated have changed, due to changing areas of war. Traditionally UASCs came from Iran, Afghanistan or Iraq. According to the authorities, now more are coming from Albania, the Middle East and Africa. UASCs from particular countries tend to settle where they can find communities of their compatriots.²¹²

The German 'Bundesamt für Migration und Flüchtlinge' states that of the 476,649 people seeking asylum in Germany in 2015, 54,762 came from Albania. Unfortunately the report does not distinguish between children and adults.²¹³

It was not possible for the author of the paper to find more information on the issue.

17. Trafficking Statistics.

What kind of sentences were imposed on those convicted of Child Trafficking ?

²⁰⁷ Ibid, page 3 – 4.

²⁰⁸ Ibid, page 6.

²⁰⁹ Ibid, page 6.

²¹⁰ Safeguarding Pressure Phase 5 – Special Thematic Report ON: Unaccompanied Asylum Seeking and Refugee Children, November 2016. Page 12.

²¹¹ Ibid, page 15.

²¹² Ibid, page 15.

²¹³ <https://www.bamf.de/SharedDocs/Meldungen/DE/2016/201610106-asylgeschaeftsstatistik-dezember.html>, 19.06.17.

None recorded but the following statistics of trafficked persons is important to note. According to National Referral Mechanism quarterly Statistics in the UK from the National Crime Agency from July to September 2014, Albania ranked first with the highest number of referrals at 42 referrals.²¹⁴ For the year end of 2014, Albania ranked the highest referrals with in total 117 minors, 34 females and 83 males.²¹⁵ In February 2016 year-end data for the NCA, Albania ranked second. This time 119 minors were referred as victims of labour exploitation ; two for organ harvesting ; 28 for sexual exploitation and 57 of unknown exploitation. In total, 204 minor victims of human trafficking.²¹⁶ In July 2017 Albania ranked second for the referral of minors with 151 referred in labour exploitation, 26 victims of sexual exploitation and 49 of unknown/ unspecified forms of exploitation. In total 227 minors were recognised as victims of human trafficking.²¹⁷ In total the four quarters of 2017 realised 210 minors of Albanian nationality, 141 of whom were found in some form of labour exploitation and a much reduced proportion in sexual exploitation with only 28 of the minors reported in that form of exploitation and the remaining 41 in other forms of trafficking or modern servitude.

National Referral Mechanism's Statistics : Albania among the 10 most referred countries of origin for minors.

Quarter	Albania on rank nr.	Referred minors from Albania
Jan to March 2012	4	4
July to September 2012	5	5
October to December 2012	3	11
Jan to March 2013	2	55
April to June 2013	2	15
January to March 2013	3	12
July to September 2013	3	10
Oct to Dec 2013	2	19
Oct to Dec 2014	2	33
April to June 2014	1	26
July to September 2014	1	42

²¹⁴ Serious Organised Crime Agency: Intelligence Report, January 15, page 15

²¹⁵ Serious Organised Crime Agency: Intelligence Report, January 15, End of year summary 2014, page 19.

²¹⁶ Serious Organised Crime Agency: Intelligence Report, February 16, End of year summary 2015, page 9.

²¹⁷ Serious Organised Crime Agency: Intelligence Report, April 17, End of year summary 2016, page 9.

End of Year Summary	Albania on rank nr.	Referred minors from Albania : females males total		
January 2015	1	34	83	117
February 2016	2	---	---	204
July 2017	2	---	---	227
February 2018				210

18. Assessment and Recommendations.

Is there DATA available indicating the number of CHILDREN trafficked INTERNALLY /INTO the country from abroad/ OUT OF the country to other countries?

The National Coordinator Dr. Elona Gjebrea (Hoxha) for the Fight Against Trafficking in persons, identifies trafficking in persons as a real challenge to the human and social value system and a flagrant violation of fundamental human rights like freedom and dignity.²¹⁸ Albania has failed to tackle explicitly child trafficking in this fresh National Action Plan. Given the significant presence we have alluded to in the UKs identification of Albanian minors surfacing as trafficked for labour or sexual exploitation, this is a matter for concern. In a rapid survey of social media hashtags and terms, our research was unable to locate local discourse on child trafficking in Albania. However there may be discourse in the Albanian language, which will rely on Albanian-speaking researchers to locate.

According to the assessment report *Responsibility Towards Albanian Unaccompanied Minors Travelling Across Southern Borders*, the term “unaccompanied” in conjunction with the Convention on the Rights of the Child is only mentioned in Article 22(1):²¹⁹

‘States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment

²¹⁸ The National Coordinator Dr. Elona Gjebrea (Hoxha) for the Fight Against Trafficking in persons, page 3.

²¹⁹ RESPONSIBILITY TOWARDS ALBANIAN UNACCOMPANIED MINORS TRAVELLING ACROSS SOUTHERN BORDERS, Tirana, September, 2015, page 30.

*of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.*²²⁰

Protection is warranted just for those children who apply for refugee status or are considered refugees. These rights are not necessarily applicable to unaccompanied children who fail to claim asylum and apparently are falling outside these two categories of protection.²²¹ There is no data to be found about minors with refugee status who are at great risk of disappearance after the initial phase of identification or settlement and this is a matter of concern.

At present, there are no recommendations for action from the international bodies for the delivery of the Rights of the Child on this matter. The Parliamentary Assembly from the Council of Europe pronounced its recommendations on the '*Situation of children in Albania*' on 29 January 1999.²²² A further analysis from Save the Children entitled '*Child Rights Situation Analysis Albania*' dates from the year 2012.

Their recommendations included to:

- *Expand pre-school (3-6) education opportunities [...] access to high-quality basic and secondary education.*
- *Advance developments in inclusive education [...].*
- *Implement integrated health programs with focus on rights and access [...].*
- *Provide integrated services of childhood (0-3) and motherhood*
- *Promote child protection and social services focusing on children most at risk*
- *Reduce inequities and target the most vulnerable*
- *Accelerate community participation.*²²³
- *Accelerate employment opportunities for disadvantaged youth*
- *Accelerate youth development and participation*
- *Implement social communication strategies*
- *Improve data collection, research and analysis*²²⁴

One of the most obvious shortcomings and frustrations in developing evidence-based recommendations relating to child trafficking in Albania, is the ubiquitous lack of available and regionally accurate, segmented data. Furthermore it renders it extremely difficult to undertake any meaningful measurement of the success of the government's actions to combat human trafficking.

²²⁰ Ibid, page 30.

²²¹ Ibid, page 30.

²²² Situation of children in Albania, Recommendation 1398 (1999).

²²³ Child Rights Situation Analysis Albania, Tirana July 2012, Save the Children, page 68.

²²⁴ Ibid, page 69.

Concerning its anti-corruption framework, which necessarily impacts on the regulatory capacity of Albania to manage money laundering, and corruption in its public and judicial processes, the Albania Corruption Report states that the government fails to implement effectively the anti-corruption laws. The Corruption Report records that corruption in the Albanian judicial system is widespread and systemic. The challenge of corruption extends through to the police and the public procurement sector. Corruption in almost all governmental systems is reported as a very real day-to-day reality.²²⁵

Corruption whether by state, border, political, judicial or enforcement officials, presents a severe and toxic hindrance to effectively addressing human trafficking anywhere. In Albania where further explanatory data is withheld or absent it makes for a challenging environment to detail with clarity what needs to be done to combat corruption practices.

According to Ma. Naim Tota, author of the paper – *‘Some Criminogenic Factors of Trafficking in Human Beings; Cases of Judicial Practice in Albania’* factors which need to be addressed around human trafficking in Albania require close and sustained attention to the *Push* and *Pull* factors :

Push factors

- *Poverty;*
- *Lack of opportunities to improve life conditions;*
- *High unemployment;*
- *Gendered and closed labor market to women and wider gender discrimination and power asymmetries;*
- *Ethnic or sexual discrimination;*
- *Physical and/or psychological violence;*
- *Regular evasion of prosecution ;*
- *Escape from the violation of other human rights;*
- *A general malaise within and collapse of the social infrastructure.*²²⁶

Pull factors:

- *improve standard of living and quality of life;*
- *access to a decent education*
- *Reduce experiences of discrimination or abuse*
- *Application of minimum standards and individual rights*

²²⁵ Albania. Albania Corruption Report, <http://www.business-anti-corruption.com/country-profiles/albania>, 28.06.17.

²²⁶ Some Criminogenic Factors of Trafficking in Human Beings; Cases of Judicial Practice in Albania, Ma. Naim Tota, Academic Journal of Interdisciplinary Studies, July 2014, page 362.

- *Better jobs and employment with satisfactory income and improved working conditions.*

Tota's research also calls for attention to the high incidence of sex trafficking in the country and in the cities, fed by :

- *a market demand both nationally-driven and by the tourist industry's demand for provision of sexual services*
- *The market demand for "workers in the sex industry" and high financial reward in return for those who sell in these services – pimping and trafficking – to exploit those profits and control the workers labour²²⁷*

19. Assessment and Recommendations

What RECOMMENDATIONS need to be put in place so as to be effective in preventing Child Trafficking?

The recommendations were advocated by the GRETA report in 2016, that the Albanian authorities pursue their efforts to :

- set up and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data from all main actors on measures to protect and promote the rights of victims as well as on the investigation, prosecution, convictions and compensation in human trafficking cases. Statistics regarding victims should allow disaggregation concerning not only sex, age, country of origin and/or destination, but also type of exploitation. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection.
- Register births since this continues as a substantial issue for the most vulnerable communities in Albania. Approximately 6 per cent of the children from the Roma community are identified unregistered at birth and consequently do not enjoy their rights.
- ensure the registration of every child by maternity homes starting with electronic registrations as a matter of routine.
- Hold to account Registration officers and officials effect changes in administrative processes so as to guarantee the registration of every child.²²⁸
- strengthen efforts of Albanian authorities in the area of prevention by sensitising and training child-protection professionals across the country
- raise awareness of children through education
- pay special attention to children placed in institutions and children from the Roma and Egyptian communities

²²⁷ Ibid, page 362.

²²⁸ UNICEF Albania, Early Childhood Development, update 20.05.17

- continue raising awareness of child trafficking and explicitly announcing this within the National Action Plan alongside a series of discrete actions to address the various ways in which Child Trafficking is realised in Albania
- Continue the important work of training and awareness-raising of the Judiciary, enforcement services, social services, border agencies in both the critical role of anti-corruption work alongside enhanced understanding of trafficking indicators, and secure reporting.
- ensure facilities which are available for trafficked children are fully funded and well integrated into a forward and comprehensive re-integration programme.
- Strengthen the co-operation with countries where there is a high incidence of child trafficking from Albania to understand the methods of recruitment and onward exploitation so that improved prevention campaigns alongside more systemic interventions address the root causes children's vulnerability to trafficking.
- Undertake specific research to understand the ethnic, regional, religious, socio-economic profiles of those being caught in trafficking exploitation in the country in order to focus resources for counter trafficking resilience. This will undoubtedly include longer term interventions in education, addressing the inherent and abusive patriarchally-aligned cultures of households, where domestic violence and abuse is clearly present without adequate redress. Issues such as gender inequalities and homophobia need to be tackled with a greater transparency of public processes to deliver accountability where the rule of law is undermined.

Finally recommendations from our own RENATE field worker be embedded in life in Albania so that the following suggestions for action in this arena of Children at risk of trafficking are in place:

- Clearer systematic identification and referral of children in street situations or the children at risk of trafficking.
- Focused assessment of the situation of the current situation of Child Trafficking in Albania, in co-operation with the responsible and affected authorities and Consulates, alongside sustained community development in at-risk environments.
- The provision of appropriate social services is actually delivered and not just on paper
- That provision of child and family protection plans are in place for any at-risk households;
- That Social Services are resourced for referrals and coordinated response

- That standards of care be fully monitored by an independently funded organisation/ombudsman/national rapporteur.

Country overview.

The ancient surviving nation of the Austro-Hungarian Empire which was dismantled in the wake of the first World War, is a land locked country surrounded by several neighbours on its borders extending over 2,100 kilometres, with a population assessed at just under ten million people – (9,850,845 July 2017). Its neighbours Austria (321 km), Croatia (348 km), Romania (424 km), Serbia (164 km), Slovakia (627 km), Slovenia (94 km), Ukraine (128 km) formed the Soviet alliance of the Warsaw Pact from which Hungary sought an exit plan in the late 1950s. In 1968 Hungary began its long road of renewing its independence, through liberalising its economy and introducing a form of communism nicknamed ‘Goulash Communism.’

The first multi party elections were held in 1990 before the collapse of Berlin Wall. It joined NATO in 1999 and the EU in 2004. Its diverse population in the smaller percentiles is due to the recent migratory pathways emerging from the Mediterranean and the Balkans in the last five years. The Census of 2011 revealed that Hungary is overwhelmingly a country dominated by Magyar Hungarians (85.6%), Romani (3.2%), German (1.9%), other (2.6%) and unspecified (14.1%). Hungarian is the official language , with English spoken by 16% of the population.

1.The EXTENT AND PATTERNS OF CHILD TRAFFICKING

The Extent and Patterns of Trafficking in Hungary are taken from a Frontex graphic– the European wide border force agency - and realised by the BBC in this visualization of the migration ‘spike’ noted by the border-markers of the European Union. During this spike there were movements up through the Western Balkans and across from the Eastern Borders which pushed Hungary, Serbia and Slovakia’s national ‘protection’ and border-control systems beyond their peacetime limits. The step change in the required activities of registering asylum claims, alongside securing ‘safe passage’ of migrants through their migration corridor into the rest of Europe, meant Hungary became a major corridor from 2014 peaking in 2015 with the number of asylum claims at over 117,000 in that year, and many more thousands entering through the long land borders within which Hungary is set.



The Dublin Convention

The map highlights the strategic placement of Italy, Hungary, Slovakia and Malta in relation to the migratory journeys which have been taking place into Europe.

The Dublin convention requires that Dublin Regulation (Regulation No 604/2013) Dublin III Regulation; previously the Dublin II Regularion and Dublin Convention is a European Union (EU) Law, which determines the European Member State responsible to examin and application for asylum seekers, seeking international protection under the Geneva Convention and EU Qualification Directive, within the European Union.

The Dublin Regulation aims to "determine rapidly the Member State responsible [for an asylum claim]" and provides for the transfer of an asylum seeker to that Member

State. Usually, the responsible Member State will be the state through which the asylum seeker first enters the EU. This is the challenge which faces Hungary, Slovakia, Greece, Bulgaria, Romania, Spain, Italy and Slovenia and Croatia, as countries which are frequently the first point of access of Schengen, and also challenges asylum seekers themselves of being assimilated and processed in countries which they prefer not to make their new life.



The National Anti-Trafficking Strategy for Hungary states clearly that “children, minors, disabled people, people living in extreme poverty, unemployed and women, particularly underage girls who grew up in child-protection institutions are viewed as especially vulnerable groups.”

Preventative measures are raised focusing on protecting children from becoming victims of trafficking with opportunities offered through the internet. Agencies are encouraged to “*make use of the opportunities provided by the Internet for the protection of children prevention from falling victim to trafficking for sexual or labour purposes.*”

The new Criminal Code 2012 has made committing human trafficking or sexual crimes against a minor an aggravating circumstance and raised the bar of jurisdiction.

In July 2017 TIP Report, Hungary was downgraded to Tier 2 Watch list, on the basis of inadequate provision of specialised services for children; a failure to attend to identification procedures around clarification and benefit-of-the-doubt practices where age was contested (minor to adult) and the prosecution of several minors in cases where they were victims of sex trafficking offences.

The report notes:

*'the government did not demonstrate increasing efforts compared to the previous reporting period. Investigations, prosecutions, and convictions decreased significantly from the previous reporting period. Services for victims remained scarce, uncoordinated, and inadequate. Specialized services for child victims (including shelter) did not exist and law enforcement arrested and prosecuted children exploited in sex trafficking as misdemeanor offenders, including sentencing 12 children to imprisonment based on their exploitation in sex trafficking. Shortcomings in security and services at state care institutions for children and in the identification of child trafficking victims remained widespread, resulting in high vulnerability of children and their re-victimization under state protection during and after their time in these facilities'*²²⁹

2.DATA COLLECTION

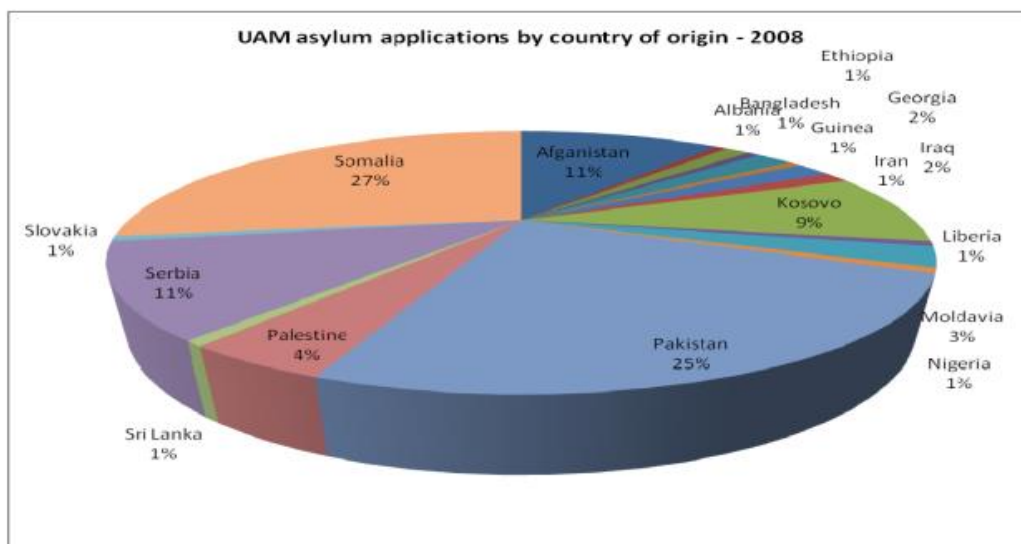
There is a central National Registration System (ENYÜBS) which is the general criminal statistics database with data on perpetrators and the victims of crime. The Greta report of 2015 highlighted substantial challenges with this system, including some of the elements of the Robotzsaru Neo-System which contains a separate module for registering proceedings launched on suspicion of human trafficking and all victims involved in such proceedings.

The Office of Justice is currently developing a new IT system dedicated to the identification and referral of victims. It which aims to improve the accuracy of the statistical data and to merge the two streams of historically separated data. The new system operational in 2017 is expected to enable the documenting of initial identification and reporting of suspected trafficking abuse, to the outcomes in prosecution and protection procedures. However this is not yet in place for the conclusion of this report. The poor data control of the Office of Justice has been criticised in the 2017 US TIP report.²³⁰

²²⁹ US*STATE*DEPARTMENT 2017. Trafficking in Persons Report. Office To Monitor and Combat Trafficking in Persons Hungary

²³⁰ *ibid*

The failure to capture gender disaggregated data and lack of clear identification management for minorities has been mitigated by work undertaken by *Terres des Hommes*. The following information emerged of a category of vulnerable persons and children around which Hungary has found some difficulties in applying robust protection.



Although the total figures displayed here are ten years old, (2008) they indicate some of the elements for Pakistan and Afghanistan that remain a constant. In 2016 there was a massive lift in applications, with Syrians and Iranians swelling numbers arriving in the country. With perceived pressure and negative popular opinion, Hungary responded by closing its border. Hungary's acceptance of first-time asylum requests was less than 10%, and in 2017 with the robust approach to various deterrents on its perimeters, information from Eurostat shows a 92% decline in applications.²³¹

Hungary recorded a decrease in first-time asylum seekers (minus 95 %), in the second quarter of 2017. Poland, Bulgaria and Germany also decreased by 80 % in 2017, compared with the same quarter in 2016. In contrast, Romania recorded the largest relative increase of first-time asylum seekers (6 times more) in the second quarter of 2017 compared with the same quarter of 2016. This shows the fluidity of approach of smugglers finding safe entrance for asylum-seekers and economic migrants they 'chaperone' into Europe.²³²

²³¹ http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_quarterly_report

²³² These are hazardous journeys, and we know that children are the most vulnerable, and female children the most at risk of recruitment into trafficking forms of abuse and exploitation at all parts of the journey.

However the reason for UAMs [unaccompanied minors] aiming for Hungary, frequently from zones of armed conflict and seeking to reunite with other relatives in Europe, has been poorly researched. This fact is also made more difficult because the vast majority of UAMs entering Hungary ‘disappear’ within 2-3 weeks. Subsequently, the follow up on such cases fails to be realised.

Because so many unaccompanied children go missing, and the Hungarian Child Protection System was inadequately prepared for protection and integration, due to lack of financial resources and required, many of the areas of cover requested in the RENATE questionnaire are not adequate to address the ‘leakage’ of UAMs from the intended state reception and care system.²³³

In 2012 the Parliamentary Commissioner found that of the 700 UAMs who had entered Hungary, 480 absconded within 10 days of arrival, confirms the view that for those engaged with smuggling or trafficking UAMs into Hungary, the country is used as an ‘open door to the EU’.²³⁴ The majority of minors were from Afghanistan (612) and Pakistan (76) In more recent years those from other countries include Syria and some African countries. The need for Hungary to bring state protection to these vulnerable children is critical. The slow progress doing it is part of the reason why Hungary’s TIP rating was demoted in 2017.

There are several schemes in place to assist in the Complex Reintegration Assistance for Assisted Voluntary Returnees to Kosovo (UNSCR 1244), implemented through IOM Budapest. The learning from this process is being looked at to see how it might be used for other such ‘at risk’ and vulnerable children.²³⁵

According to US TIP 2017, ‘Anti-trafficking experts reported police categorised children between the ages of 14 and 18 as “juveniles” instead of children and under Hungarian law this allows the courts to impose punishment for crimes and misdemeanors instead of treating them as victims, particularly in prostitution-related offenses.

In addition, ‘police generally failed to identify or remained reluctant to investigate certain trafficking cases involving child victims, including vulnerable children in state-run care institutions. There were no reported investigations, prosecutions or convictions for official complicity. Some observers expressed concerns about police

²³³ NETWORK, E. M. 2014b. Policies, Practices and Data on Unaccompanied Minors in 2014. European Migration Network Hungary co funded by the Asylum Migration and Integration Fund of the EU.

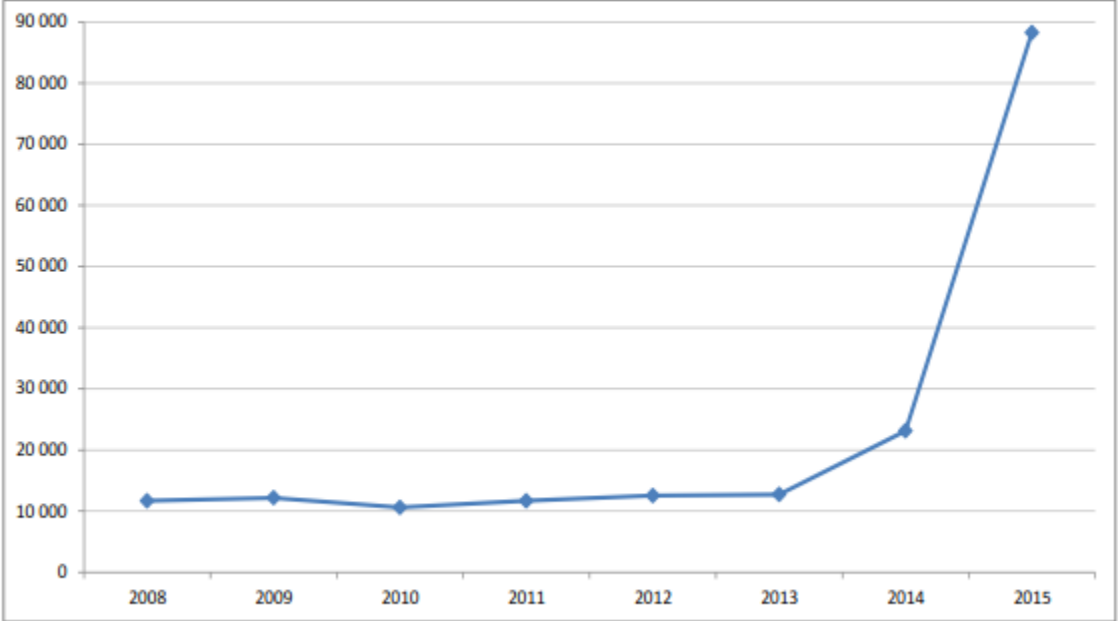
²³⁴ Ibid.

²³⁵ Ibid.

protection of suspected traffickers. There were no standard trainings on trafficking provided for law enforcement professionals and only *ad hoc* training courses conducted.²³⁶ The following graph displays the sharp increase in UAMs claiming asylum in Europe in the decade since 2008, with a substantial number of increase entering through Hungary in 2014/2015, only to ‘disappear’ days after entry.

This information is issued by Eurostat, the statistical office of the European Union.

Asylum applicants considered to be unaccompanied minors in the EU Member States*, 2008-2015



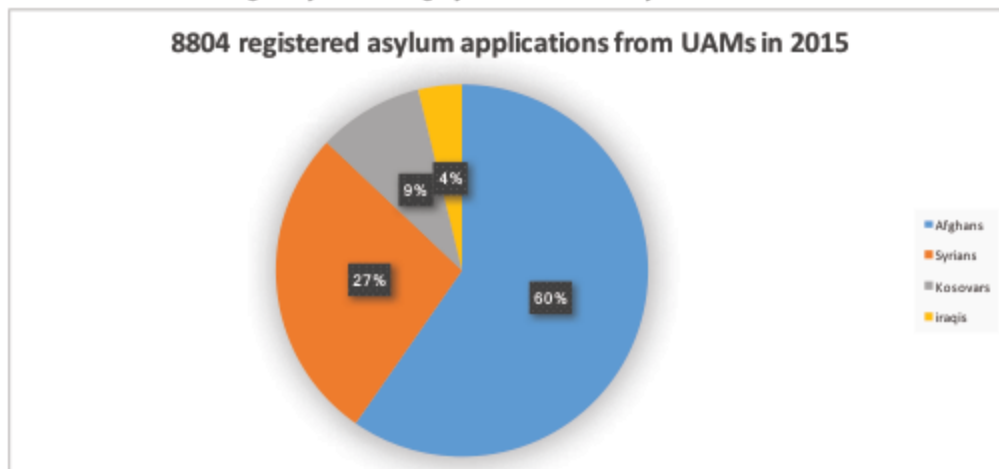
* excluding Croatia for the period 2008-2011

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²³⁶ US*STATE*DEPARTMENT 2017. Trafficking in Persons Report. Office To Monitor and Combat Trafficking in Persons

²³⁷ Eurostat Press Release 2nd May 2016

As for 2015, the OIN registered 8804 asylum applications altogether from unaccompanied minors.¹¹ According to the UNHCR 865 UAMs sought asylum in Hungary between 1 January and 30 June 2016.



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1. COUNTRY PROFILE AND TRAFFICKING ROUTES- is this mainly a country of ORIGIN/TRANSIT/DESTINATION?

Hungary is regarded mainly as a country of origin and transit for victims of trafficking within EU. Primary destination-countries for the victimisation of Hungarian persons are: The Netherlands, Belgium, Austria, United Kingdom, Germany, Switzerland, and Italy. However the age and the types of trafficking experienced are less well known.

Internal trafficking is a growing phenomenon which concerns especially the poorest areas of the country like Borsod–Abaúj–Zemplén County, Szabolcs–Szatmár–Bereg County (northeastern part of Hungary) and Baranya County (southwestern part of Hungary). Tolna County (in the southwestern part of Hungary) and Békés County (southeastern part of Hungary). These are identified as significant source regions.

The great majority of identified minor-victims within Hungary seem subjected to sexual exploitation. However the US Tip report of 2016 notes the majority of those identified under investigation were for labour trafficking. This poses a substantial challenge in the way in which trafficking intervention is understood in Hungary and the various crime- types it manifests. There is a substantial piece of work to be undertaken around data collection and interrogation, quite apart from the necessary enhancement of training for front line first responders in the Police, social services, health providers, and border agencies. The OSCE, and GRETA recognise these areas as problematic needing concerted attention.

²³⁸ BOKSHI, E. June 2016. Case Study on a Dedicated Reception Centre with a Range of Integrated Services in Hungary ECRE European Council on Refugee and Exiles

The summer of 2016 witnessed a massive step change in Hungary's management of its borders by constructing a razor-wire fence on its border with Serbia. In 2015 over 170,000 Asylum applications were lodged in Hungary. This opened the gate to the Schengen free movement area of Europe, and a corridor through to Germany, Sweden and other favoured countries such that many more passed through illegally resulting in the Hungarian border-control overwhelmed. The European Union gave Hungary a grant of 7 million EUR to assist with the management of the flight of 1,011,700 migrants who arrived by sea in 2015, and almost 34,900 by land.²³⁹ With a disproportionate level of refusals of those requesting asylum at the border, *Terres des Hommes*, has flagged its concerns around the rapidity of decision-making not only at the height of the crisis, where reviews undertaken according to due process was something of a miracle, in one day September 2015, 2,000 asylum seekers and economic migrants breaching the land border with Serbia required attention.²⁴⁰ The 'refusal of entry' for 'hundreds' of vulnerable children at border points, some of whom may have been trafficked, or for whom such steps could be the turning point of irregular migration into a trafficking nexus is a real and ongoing concern.

The US TIP report of 2017 did not mince its words on how Hungary was managing its enhanced Asylum-seeking population – even though these numbers are reduced since the construction of the wire fence with Serbia and other measures taken by the government.

'The (Hungarian) government did not adequately identify victims among vulnerable populations, such as adults and children exploited in commercial sex, adults who previously lived in and children living in government-run institutions, and unaccompanied minors seeking asylum. In addition, the government did not effectively screen unaccompanied minors to identify potential trafficking victims. The government decree on the trafficking victim identification mechanism listed the institutions responsible for identifying victims, the questionnaire to be completed with suspected victims, and procedural protocols.'

There was, however, a lack of clear legal definition and unified professional standards for identifying trafficking victims, as well as a lack of widespread dissemination of identification protocols among front-line responders. In early 2017, the government enacted a new asylum detention law that requires

²³⁹ International Organization for Migration (IOM) estimates

<http://www.bbc.co.uk/news/world-europe-34131911>

²⁴⁰ <http://www.dw.com/en/hungary-claims-record-daily-migrant-intake/a-18670646>

*mandatory detention of all asylum-seekers until the final decision is issued in their cases; without proper screening, this may result in the detention of trafficking victims.*²⁴¹

There was an enhanced government allocation of a few thousand dollars undertaken, 7 million forints a pusillanimous (\$23,830) to improve the screening of trafficking victims among third country nationals and asylum-seekers. However in the light of the substantial finance made available to Hungary during the height of the Asylum-seeking surge Summer 2015, when the European Commission pledged to give Hungary nearly \$9.24 million (8 million Euro) this funding seems underpowered. Hungary, as front line of Schengen received just under a fifth of the Euro 50 million fund the European Parliament assigned for dedicated refugee and migration for the Asylum, Migration and Integration fund of the European Commission of 2014-2015. This is a small amount in relation to the Internal Security Fund (ISF) of 2.76 billion EUR, for external borders and visa across the 6 years spanning 2014 – 2020, and which tackles issues often closely related to asylum and migration. However this money appears to get locked into tightening border security and tighter migratory movement rather than addressing the social protection issues which emerge for children and adults when borders are ‘breached’ and Asylum-seekers face multiple vulnerabilities attempting to find a new place to call home.

1. DATA AVAILABLE in Official Statistics

The number of child and young adult victims of human trafficking documented in 2016 by the Hungarian justice system are as follows:

	children (0-13)	minor (14-17)	young adult (18-24)
Trafficking in human beings (for sexual purposes)	97	171	101
Forced Labor or Forced Service (slavery)	0	2	4
Organ trafficking	0	0	0

²⁴² ***

²⁴¹ US*STATE*DEPARTMENT 2017. Trafficking in Persons Report. Office To Monitor and Combat Trafficking in Persons

²⁴² ***

The number of child and young adult victims of human trafficking in **2015** are as follows:

	children (0-13)	minor (14-17)	young adult (18-24)
Trafficking in human beings (for sexual purposes)	168	176	67
Forced Labor or Forced Service (slavery)	0	7	0
Organ trafficking	0	0	0

2. CAUSES OF CHILD TRAFFICKING- Are there groups of children who are more frequently reported to be affected by trafficking? (**Nationality- Ethnicity- Religion?**).

Children living in living in extreme poverty or children emerging from State and CSO-run care and correctional institutions, Roma children and women from Eastern Hungary, are noted in the US TIP report 2016, to be exploited by traffickers. Substantial numbers are exploited in Belgium – a country particularly nominated in the report – are Hungarians frequently of Roma extraction. Other destination points for sex trafficking exploitation external to Hungary are found in the Netherlands, Germany, Austria, Switzerland, and the United Kingdom.²⁴³ Alongside the correctional and care institutions as places of vulnerability the TIP report also indicates the ubiquitous vulnerability of unaccompanied minors, (referred to above) as an area of vulnerability which requires urgent attention.

The International Organisation for Migration report April 2017 alerted the Hungarian government of the vast numbers of child victims not being addressed properly in state-provided child care institutions and correctional facilities ‘where many of them are underage and recruited by traffickers. Alongside Roma women and their children the key destinations for these groups IOM believes are the Netherlands and Switzerland.’²⁴⁴

The IOM report draws attention to the deep-seated sustained systemic changes required. These touch deeply into what can appear as ingrained cultural exclusions

²⁴³ DEPARTMENT;, U. S. 2016. Trafficking in Persons Report. P44

²⁴⁴ IOM October 2015. Human Trafficking the Invisible Phenomenon.

and ‘poor socio economic conditions that only a set of long-term measures of social and education policies can address effectively.’ The report points to some clear adjustments to current practice within the Hungarian child-protection system – which requires immediate redress so as to avoid making a serious set of aggravating conditions even worse.²⁴⁵

3. ASSISTANCE- LEGAL AND PROFESSIONAL- Is there a **REFERRAL MECHANISM** in the country? Are there **LEGAL PROVISIONS** to appoint a **LEGAL GUARDIAN** when a child victim of trafficking is identified in the country?

There is a National Referral Mechanism, which was adopted in 2012. In case a child victim is identified, the identifying authority immediately notifies the child protection service. The child protection service is also notified if an adult victim arrives to a shelter with his/her child. According to act XXXI of 1997 on the protection of children and the administration of guardianship, the guardianship authority shall appoint a guardian for unaccompanied minors.

The 2014 GRETA report noted a number of areas of concern around guardianship and the capacity of Hungary to provide sufficient support for those who had been subjected to Trafficking. This concern around the total inadequacy of the safe-housing provision for trafficked minors has also been commented on by US TIP for the last three years. The 2016 US TIP report stated that the government’s protection efforts remained insufficient, ‘as specialised services for child victims did not exist and law enforcement arrested children exploited in prostitution, including sentencing nine children to imprisonment despite their being subjected to sex trafficking. The government did not demonstrate adequate efforts to identify victims among vulnerable populations, such as children exploited in prostitution or adults and children living in government-run institutions.’²⁴⁶ In 2017 the US TIP report was even more straightforward in its criticism around protective services being offered to children. It states:

‘The government maintained insufficient protection efforts, as specialized services for child victims (including shelter) did not exist and law enforcement arrested children exploited in commercial sex as misdemeanor offenders, including sentencing 12 children to imprisonment based on their involvement in commercial sex. The victim assistance service of the Office of Justice identified nine victims (five males and four females, including two minors), compared with eight victims in 2015. Of these, three were victims of forced

²⁴⁵ Ibid.

²⁴⁶ US*STATE*DEPARTMENT 2016. Trafficking in Persons Report Hungary Country Report

*labor in the construction industry, five of forced prostitution and one of domestic servitude. The victims received the following care services: one person received information on legal assistance, four persons received financial aid, and three persons received psychological assistance.*²⁴⁷

The Ministry of Human Capacities replied to GRETA's criticisms in 2014 pointing out that it brings together Shelter capacities currently being provided in Hungary through the services of the *Hungarian Baptist Association*, (HBA), the *Anonymous Ways Foundation* which specifically assists women to exit prostitution, and the *Chance for Families* NGO whose two shelters for trafficked persons are state funded as of 2015. The *Hungarian Baptist Aid* [Aid or Association?] runs a number of shelters into which victims of trafficking can be accommodated.²⁴⁸ There is an anti trafficking NGO round table in Hungary through which initiatives countering trafficking and supporting victims can be engaged.²⁴⁹

However, the criticism from the US TIP assessment remains. Currently there are no designated shelters for accommodating children, or providing high quality care for their protection, recovery and onward integration into Hungarian society, or carefully managed reintegration and return. Hungary is currently relying on the onward movement of those caught in migration within its borders to third countries within the European Union. However amongst the tens of thousands still passing through its borders, and within its own domestic population there are undoubtedly child victims of either sexual exploitation, labour exploitation, criminal abuse. This is an area which needs urgent redress from the State. With the facilities for shelter and support for trafficked victims provided for in the minds of US TIP and GRETA, it is hardly surprising that the focus on policing is not on seeking out trafficking infractions on children.

US TIP noted that the dozen or so child victims, identified by police and border personnel, could receive general care through the standard child protection system, but *'this system had insufficient staff or resources to provide tailored care or security, leaving victims vulnerable to being re-trafficked. Experts criticized the lack of assistance and specialized shelters for child trafficking victims. The government recognized repatriation of child victims is provided by state authorities but there were*

²⁴⁷ US*STATE*DEPARTMENT 2017. Trafficking in Persons Report. Office To Monitor and Combat Trafficking in Persons Hungary Country Report

²⁴⁸ GRETA 2015a. Report Concerning the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary. Secretariat of the Council of Europe Convention on Action Against Trafficking in Human Beings p55

²⁴⁹ The full list of Non-Governmental Organisations which were consulted by the GRETA report of 2015 are listed at the end of this section

*no appropriate reintegration facilities for children; secondary victimization of children was common. In 2016, the government set up a professional working group, including NGOs and relevant government agencies, to focus on research, protection, prevention, and victim assistance regarding child sex trafficking in state care institutions’.*²⁵⁰

With regard to children the *Terres des Hommes* report marks out the failure of the ‘best interest determination procedure’ as deeply flawed. There is a singular lack of all involvement by stakeholders. Further flaws are pointed out in the age assessments, with no legal recourse available to a child who is wrongly assessed as an adult and no ‘benefit-of-the-doubt’ in favour of the child routinely secured in Hungary’s child-protection processes. The immediate recommendation here is to see a ‘multidisciplinary age assessment mechanism’ established.²⁵¹

4. PROVISION-PROTECTION OF THE CHILD-

Are there **LEGAL PROVISIONS** in the country that automatically grant ‘right to remain’ visas if the child is a foreign national?

The Victim Support and Compensation Act 2005, provides for a trafficked victim of a third country a 1 month reflection period and a certificate of temporary stay for this period to decide whether he/she is willing to cooperate with the authorities investigating the crime.

Where the victim is willing to cooperate with the authorities, he/she is entitled to a residence permit for the period of cooperation with the authorities.

Victim assistance service initiates the certificate for temporary stay at the immigration authority (Office of Immigration and Nationality)

However a number of reports raised challenges around the processes of accessing temporary rights to remain, including the *Terres des Hommes* report, 2016. This report noted multiple concerns about Refoulement. For example the situation of Hungarian authorities escorting migrant families with children to the Serbian border preventing them from seeking protection (which breaks Article 33 of the 1951 Refugee Convention). Additionally, there is concern raised as a challenge by Human Rights Watch and the UNHCR about widespread brutality at the southern border of Hungary.

²⁵⁰ US*STATE*DEPARTMENT 2017. Trafficking in Persons Report. Office To Monitor and Combat Trafficking in Persons

²⁵¹ HOMMES, T. D. 2016. Research Report:Children on the Move in Hungary Budapest: Terres Des Hommes.

Act LXXXIX of 2007 on the nature of the Hungarian State border has been modified in 2016 as follows

“The police may apprehend the foreigner unlawfully staying in the territory of Hungary within 8 kilometres of the border sign or border line of the external state border as defined by Article 2 (“) of Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders, and may escort him/her through the closest gate of the facility established for the protection of the order of the state border.”²⁵²

The above is in clear violation of the principle of non-refoulement enshrined in the 1951 Refugee Convention. During the process of seeking to access transit zones which have been established as part of the border management processes, there have been significant numbers of reports to show that there are no laundry facilities, lack of shelter with only tents in a makeshift camp available. School enrolment benefit is also cancelled for child asylum seekers. Hungary appears to be restricting its appeal to asylum seekers. As the graph in fig 2 shows this strategy appears to be working.

In spite of its Eurosceptic parliament during its European presidency in 2010, Hungary advocated that there should be a unified European notion of the victim, owing to the ‘darker side’ of the four freedoms of the EU: goods, capital, services, and labour. These also, generate a ‘freedom of criminality’ in cross-border serious crimes, including Human Trafficking. The EU Presidency championed the rights of the victim of the 230,000 annual crimes perpetrated in Hungary. It recognised that criminal offences almost always incur ‘severe mental trauma in the victims’ and that legal advice and ‘a few Euros’ were inadequate to mitigate or heal these traumas which required a fleet of further additional services.²⁵³ However the general public is seen widely not to appropriately recognise the trafficking reality in its population. Hungary accounted for 18% of all the investigations of trafficked victims undertaken by Europol between 2009-2013 – unfortunately we do not have the break down of how that split is realised in the detected victims of trafficking in Europe who are minors.²⁵⁴

Amongst the provisions for victims in the Hungarian Presidency’s European Roadmap for the standing of victims (in general) in criminal proceedings were the following provisions, though significantly not further embellished with safeguarding children concerns:

- The access of victims to rights

²⁵² <http://www.helsinkig.hu/wp-content/uploads/hhc-hungary-asylum-legal-amendments-Apr-June-2016pdf>

²⁵³

²⁵⁴ IOM October 2015. Human Trafficking the Invisible Phenomenon.

- The protection of their privacy and of their person from both the offender and from the harmful effects of the proceedings
- The elimination of obstacles related to language
- Giving additional procedural rights to the victim
- Encouraging the recourse to restorative justice – where these are in the interest of the victim.

Significantly in a number of critical areas, GRETA report 2015 urged the Hungarian authorities to evaluate whether the considerable number of excellent measures *de Jure* available in Hungarian law, are actually put into practice. Amongst these are to ‘take additional measures to ensure that they are adequately protected from potential retaliation or intimidation in the course of judicial proceedings.’

On appropriate protection from initial trafficking offences, GRETA considered that the Hungarian authorities ‘should strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society and the private sector’ – which in our review of the literature, has not been recorded. The regime is currently on clear alert to close down ‘incursions’ on the border and squeeze out requests for asylum, rather than drive forward a programme of child protection. This is something which needs to be undertaken at all levels, through addressing demand for trafficked sexual and labour services at home, for minors and adults, with particular attention to the Roma population present in their indigenous communities, where trafficking-like offences have been operating for decades.²⁵⁵

5. PERMANENT/TEMPORARY RESIDENCY-DATA-

Is there data on children who have received **PERMITS** for residency in the country?

We have not been able to access information on this aspect of the survey currently. However it is clear that Hungary releases only a small percentage of temporary residence visas and permits, in relation to the numbers of applications submitted for asylum and protection.

6. REPATRIATION-DATA-

How many child victims of trafficking have been **REPATRIATED TO THEIR COUNTRY** of origin?

²⁵⁵GRETA 2015a. Report Concerning the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary. Secretariat of the Council of Europe Convention on Action Against Trafficking in Human Beings

Access is currently not available to specific numbers on this aspect of the survey. Refusals at the border are increasing since the ‘surge’ of 2015. The location of the decision-making – at the perimeter of the Hungarian borders, the rapidity of the Hungarian Asylum process and negative outcomes, and the patchy roll-out of any training around trafficking indices for hastily expanded border policing operations, has concerned US TIP assessment along with a number of NGOs, working with asylum-seekers and economic migrants, who wonder openly about their rigor and the controlling perspective through which the claims are filtered. In such circumstances, potential trafficking cases are highly likely to be missed and to be thrown back into Serbia, or deported rather than the offence be addressed. There are a high number of refusals. The percentage of those seeking asylum in Hungary is extremely low. Recent data has shown the increased rate of negativity, a fact which many of those who breach the border between Serbia and Hungary are aware of and who focus their energies and strategies to access Germany or Scandinavia before placing their asylum claim in Hungary – in contravention of the Dublin convention – which is now under renewed scrutiny, as having delivered increased burdens to countries on the borders of the Schengen area.²⁵⁶

VICTIM ASSISTANCE- What institution or organisation is responsible for RECEIVING children that are being repatriated to their country of origin? Are there LEGAL PROVISIONS in the country of origin to ensure that (repatriated) child victims of trafficking receive long-term care and protection?

Children can be placed in the Temporary Shelters if they are indirect victims, meaning their parent(s) or guardian are victims of trafficking. If the child him/herself is trafficked the legislation states that he/she will be placed in the Children Protection Service. However the US TIP report criticises about how this provision is actually working in practice.²⁵⁷ The support services provided by Victim Support and Compensation Act are also available to Hungarian citizens who are victims abroad and are repatriated to Hungary.

State legislation claims to provide the following services to all victims:

- immediate financial aid
- Information, legal assistance, emotional support and other help
- provide certificate of victim status
- witness care

²⁵⁶

<http://www.europarl.europa.eu/news/en/headlines/priorities/20150831TST91035/20160411STO22318/migration-meps-debate-new-approach-to-manage-flows-of-migrants-and-refugees>

²⁵⁷ US*STATE*DEPARTMENT 2017. Trafficking in Persons Report. Office To Monitor and Combat Trafficking in Persons

- safe house (shelters) specifically for the victims of human trafficking
- state compensation (for victims of violent intentional crimes, such as human trafficking).

However there have been a number of concerns raised by NGOs working on the ground and from the reports undertaken by US TIP and the European Migration Network, about the efficacy of the delivery of many of these services. The NGOs have particular concerns around the level of expertise and training of legal, psychological and social protection for minors.²⁵⁸

Roma people are viewed as '*what Hungary has to live with.*' There have been numerous occasions when Roma have been systematically attacked and harassed by vigilante groups and vilified by politicians without any recourse to Justice and Police action, and this in the years after the collapse of the Berlin Wall and the inclusion of Hungary into the European Union.. In 2012 the European Court of Human Rights highlighted that a pattern of persecution seemed to be tolerated in relation to the treatment of Roma in certain villages. The Court judged that perpetrators of various hate crimes "remained virtually without legal consequences." This could be perceived by the public as the 'state's legitimisation or tolerance of such abuse'.²⁵⁹ With an estimated one million Roma amongst the 9.5million total population, the Roma community is clearly a highly vulnerable group within Hungarian society. Clan murders, endemic unemployment and educational underachievement are common. Life expectancy for Roma males is a dozen years less than his Magyar fellow citizen. Yes, Hungary announces itself as a trailblazer in 'integrating the Roma.'

The *Dis-interest of the Child* report undertaken in 2007, makes disturbing reading about the systemic institutionalisation of many Roma children. The intentions are frequently articulated as 'short-term intervention' but children often are never placed back with their families. In 2005, there were over 21,000 minors in after-care facilities, between 10% - 15% of children are reunited with their families. Of this minority, only 10% are Roma children, who are disproportionately represented in the overall numbers taken into care, and placed in foster or more institutionalised children's home. The *Dis-interest of the Child* report tells a narrative of a system in which the basics of child protection are under massive strain, under-resourced due to culturally unequal processes undergirding the delivery of child protection across Hungary. It should be read by any who seek to understand the wider context of trafficked children or those vulnerable to trafficking that the ongoing supply for

²⁵⁸ HOMMES, T. D. 2016. Research Report: Children on the Move in Hungary Budapest: Terres Des Hommes.

²⁵⁹ <https://www.politico.eu/article/the-roma-peoples-hungarian-hell/>

internal trafficking of young females as fodder for child prostitution or recruitment into the phantasmic 'financial security' of sexual exploitation is such that when they come out of institutions in which they are isolated they are more vulnerable.²⁶⁰

In April 2011 Hungary marked its six-months presidency of the EU by launching a continent-wide Roma strategy. It stated that the Roma community was a valuable human resource and 'not a problem to be solved.' The government held that Roma community must be educated, integrated and employed so 'they can contribute to society.' However, widespread exclusion, organised criminality, ubiquitous money lending and indebtedness continues for vast numbers of Roma. It is known that substantial intra-familial trafficking-type abuse takes place and exploitative practices with Hungarian citizens is common such as begging, prostitution, drugs and criminality that is inherent in this 'excluded and widely segregated society.' Roma children are frequently classified with mental problems even when they are not, according to Andras Ujlaky, of the *Chance for Children Foundation*. Almost 50% of Roma children are segregated, and receive a sub-standard education in his estimation. This is also supported in recent reports from Amnesty International.

There were no reported investigations, prosecutions, or convictions of traffickers for official complicity. Some observers expressed concerns about potential police protection of suspected traffickers. There were no standard trainings on trafficking provided for law enforcement professionals and only *ad hoc* training courses conducted.

Child Victims are placed in open shelters, and given a dedicated guardian, who is separate from the single state organised reception centre dedicated for children. GRETA has raised a number of concerns about these arrangements with concerns around the efficacy, speed of appointment and independence of the guardians to protect the rights of the child in all instances.²⁶¹

7. GOVERNMENT POLICIES and ACTION PLAN FOR PREVENTION- Has the government adopted a NATIONAL ACTION PLAN on Trafficking in Human beings?

²⁶⁰ CENTRE, E. R. R. 2007. Dis-Interest of the Child: Romani Children in the Hungarian Child Protection System Budapest: European Roma Rights Centre.

²⁶¹ NETWORK, E. M. 2014a. Policies Practices and Data on Unaccompanied Minors in 2014. Co-funded by the Asylum, Migration and Integration Fund of the European Union. And GRETA 2015a. Report Concerning the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary. Secretariat of the Council of Europe Convention on Action Against Trafficking in Human Beings

The first National Anti-Trafficking Strategy for 2008-2012 was adopted in 2008. The Hungarian authorities are currently working on the implementation of the second Strategy 2013-2016.

The Ministry of Human Capacities launched a pilot prevention project in December 2012, which aimed at potential victims of trafficking in order to prevent victimization. This was designed to be a continuous and sustainable intervention programme for secondary schools of 45-minutes. Awareness-raising workshops and training in prevention for secondary school students aged 14 to 18 were put in place as an attempt to reduce trafficking, with the focus on trafficking, violence in relationships and child abuse.

Between 1 June 2013 and 31 December 2014, a country-wide information campaign between EURES and the National Police Headquarters deployed a prevention campaign “Don’t become a victim abroad!” It is unclear where these campaigns now stand in the onward Anti Trafficking Strategy though the Hungarian authorities have established for its citizens abroad an anti Human Trafficking facebook page.²⁶² Furthermore in 2014, the Hungarian Victim Support Service added THB related topics to its profile at <https://www.facebook.com/alfodazatsegitoszolgalat>.

Training is seen as a significant part of the response for police officers, investigators, prosecutors, judges, victim support assistants, consuls in the field of victim identification, assistance and legislative background of human trafficking. In a series of monitoring engagements deployed in Hungary by external bodies such as the European Migration Network, ECRE, GRETA and US TIP, all reported that the levels of sustained training required for Hungary needs a great deal more attention for the protection of children.

8. IMPLEMENTATION AND MONITORING-

Is there one Ministry that is leading in developing and implementing National Policy responses to Child Trafficking?

The Ministry of Interior has a coordinating role in the fight against human trafficking and is a key actor in forming the national strategies. The exchanges between the Ministry of the Interior and GRETA’s monitoring group makes interesting reading. GRETA raises concerns about process, identification procedures, victimization of children through criminalization, implementation of promises and securing

²⁶² <http://emberkereskedelem.kormany.hu/index>

appropriate multi-disciplinary protection levels, through adequate interpretation, speedy appointment of guardians, and child protection facilities.²⁶³

10 GOVERNMENT AGREEMENTS

-Are there any Government BILATERAL/MULTILATERAL AGREEMENTS in force on the issue of Human Trafficking?

Hungary has ratified all major anti-trafficking conventions and is party to:

- the Council of Europe Convention on Action against Trafficking in Human Beings
- the United Nations Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children
- the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography
- the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol

In the framework of the RAVOT-EU project, an international victim referral mechanism was developed between Hungary, the Netherlands and Belgium. A similar victim referral mechanism is operated between Switzerland and Hungary in 2017.

LEGAL FRAMEWORK-

Is the legal definition of a "CHILD" in line with the definition of the CONVENTION on the Rights of the Child?

Yes. In civil law, under the Child Protection and Guardianship Administration Act anyone under the age of 18 is considered a child.

However in criminal law, from the age of 14, a person can be held criminally responsible for any offence committed and from the age of 12 for homicide, voluntary manslaughter, battery, robbery and plundering, provided that the child had the capacity to understand the nature and consequences of his/her act. This is something which European Human Rights and Child Rights lawyers are deeply concerned about and actively seeking to rescind.

²⁶³ GRETA 2015a. Report Concerning the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary. Secretariat of the Council of Europe Convention on Action Against Trafficking in Human Beings, NETWORK, E. M. 2014a. Policies Practices and Data on Unaccompanied Minors in 2014. Co-funded by the Asylum, Migration and Integration Fund of the European Union.p4

9. LEGISLATION-

Does legislation in the country criminalise Human Trafficking?

Yes. Section 192 of the Criminal Code provides the following definition:

Trafficking in human beings – Section 192

(1) Any person who

a) sells, purchases, exchanges another person, conveys or receives another person for consideration; and/or

b) transports, lodges, hides or acquires a person for another person for the purpose of carrying out the crime defined in Point a)

is guilty of a felony punishable by imprisonment of up to three years.

(2) Any person who sells, purchases, exchanges, conveys, receives, recruits, transports, lodges, hides or acquires a person for another person for the purpose of exploitation shall be punishable by imprisonment between one to five years.

(3) The punishment shall be imprisonment between two to eight years if TIP is committed:

a) to the detriment of a person deprived of his/her personal liberty;

b) by force or by threat;

c) by deception;

d) by the torment of the injured party;

e) against a person under the education, supervision, care or medical treatment of the perpetrator, and/or by abusing any other relationship of power or influence over the injured party;

f) for the purpose of the unlawful use of the human body;

g) as a public official, using such an official capacity;

h) in a criminal conspiracy; or

i) in the manner of a business operation.

(4) The punishment shall be imprisonment between five to ten years, if

a) the crime defined in Paragraph (2) is committed against a person under the age of eighteen;

b) the crime defined in paragraph (2) and committed against a person deprived of his/her personal liberty is carried out as set forth in one of the points of paragraph (3) b)-i); or

c) the crime defined in Paragraph (2) causes particularly serious damage or danger to life.

(5) The punishment shall be imprisonment between five to fifteen years, if

a) the crime defined in Paragraph (2) is committed against a person under the age of fourteen;

- b) the crime defined in Paragraph (2) and committed against a person under the age of eighteen is carried out as set forth in one of the points of Paragraph (3);
 - c) the crime defined in Paragraph (2) and committed against a person under the age of eighteen caused particularly serious damage or danger to life; or
 - d) the crime defined in paragraph (2) is committed against a person under the age of eighteen for the purpose of child pornography.
- (6) The punishment shall be imprisonment between five to twenty years or life imprisonment, if:
- a) the crime defined in Paragraph (2) and committed against a person under the age of fourteen is carried out as set forth in one of the points of Paragraph (3);
 - b) the crime defined in Paragraph (2) and committed against a person under the age of fourteen caused particularly serious damage or danger to life; or
 - c) the crime defined in Paragraph (2) is committed against a person under the age of fourteen for the purpose of child pornography.
- (7) Any person who commits the preparation of TIP is guilty of a misdemeanor punishable by imprisonment of up to two years.
- (8) For the purposes of this Section, exploitation shall mean an intention to obtain advantages from the situation of a person brought into or kept in a vulnerable situation.”

Forced labor is also explicitly criminalized by Section 193.

Section 193 – Forced Labor

- (1) Any person who forces another person by taking advantage of his vulnerable situation, or by force or by threat of force, to perform work against his will, is guilty of a felony punishable by imprisonment between 1 to 5 years.
- (2) The penalty shall be imprisonment between 2 to 8 years if the crime of forced labor is committed:
 - a) by tormenting the victim;
 - b) by causing a significant injury of interests; or
 - c) against a person under the age of 18 years.

In 2014, GRETA reported on Hungary’s response to the Council of Europe Convention on Action against Trafficking in Human Beings. It pointed out the range of different sanctions for offenders, for instance a crime of sex trafficking from 2 years to 8 years needs to be reflected on to see that judicial practice and prosecuting protocols are appropriately aligned.²⁶⁴ Alongside the US TIP reports, it recommended that the practice of criminalising minors involving sexual exploitation of Roma girls, be addressed with urgency. This is something of a cultural journey for to be reappraised

²⁶⁴ GRETA 2015a. Report Concerning the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary. Secretariat of the Council of Europe Convention on Action Against Trafficking in Human Beings

by police, social services, judiciary and prosecuting services. There is an important educational role for religious organisations in assisting this reappraisal and reframing what happens when a Roma child becomes involved in 'prostitution' or 'on street begging' 'shoulder surfing' and distraction crimes, and the multiple forms of exploitation which these various types of 'trafficking' offences represent. There is an important task for generating better understanding to inform the wider public. so that political will is encouraged. According to numerous reports cited here, the public are more ready to place Roma children in a category of 'other' in their society rather than see them as a dynamic part of the civic future of the country. This is a challenge for all public agencies.

10. LAW ENFORCEMENT-

How many CHILD-TRAFFICKING CRIMES have been RECORDED (by police)?
UNDER INVESTIGATION? CONVICTED? PROSECUTED in the country?

The answer to this question is provided under heading Question 4 above.

What kind of SENTENCES were imposed on those convicted of Child Trafficking?

There is no clear statistical information on the sentences imposed on child traffickers. Instead, there are questions raised in reports from *Terres des Hommes* and the European Migration Network about the way in which the risk of child trafficking is being met by the authorities, particularly when those trafficked are unaccompanied minors or from the Roma community. As already noted, there is concern that those in institutional care, in children's homes situated across Hungary are not safeguarded well, and their risk of being absorbed into drug muling, sex trafficking and child labour is not protected by social protection or policed proactively.

TRAFFICKING STATISTICS- Is there DATA available to show the number of CHILDREN trafficked INTERNALLY /INTO the country from abroad/ OUT OF the country to other countries?

The answer to this question is provided under heading Question 4 above.

13. ASSESSMENT and RECOMMENDATIONS

Is there a **NATIONAL DEBATE** on Child Trafficking in the country? What **RECOMMENDATIONS** need to be put in place so as to be effective in preventing Child Trafficking?

In the framework of the National Coordination Mechanism, regular meetings are held. It is coordinated by the Ministry of Interior and has the following members:

- Budapest Metropolitan Court;
- Chance for Families Foundation 2005;
- EURES Network (European Employment Service);
- Hungarian Baptist Aid;
- International Organization for Migration;
- Ministry of Human Capacities (MHR, Hungarian abbreviation EMMI), Department for Social Inclusion and Department for Equality;
- Ministry of Foreign Affairs and Trade (MFA, Hungarian abbreviation KKM) Department for Consular Affairs and Department of the Americas;
- Ministry of National Economy (Department of Employment and Replacement and Coordination Department – EURES)
- Ministry of Justice (Hungarian abbreviation IM);
- National Bureau of Investigation, Trafficking in Human Beings Unit (NBI, Hungarian abbreviation NNI);
- National Crisis Management and Information Service (Hungarian abbreviation OKIT);
- National Institute of Criminology (Hungarian abbreviation OKRI);
- National Office for the Judiciary (NOJ, Hungarian abbreviation OBH);
- National Police Headquarters (Hungarian abbreviation ORFK);
- Office of the Prosecutor General;
- Office of Immigration and Asylum (OIA, Hungarian abbreviation BMH);
- Office of Justice, Victim Support Department.

A biannual NGO roundtable is organised by the Ministry of Interior. These two platforms ensure that all policy challenges – including child-trafficking – can be discussed with all stakeholders. Those represented around the table include the following listed organisations working in the Counter Trafficking resource building in Hungary and are able to access the Ministry of Interior at this bi-annual meeting.

Intergovernmental stakeholders

- International Organisation for Migration IOM
- UNHCR

NGOs

- Anonymous ways foundation
- Blue Line Child Crisis (Kek Vonal Foundation)
- Chance for Families 2005 Foundation

- Cordelia Foundation
- European Roma Rights Centre (ERRC)
- Hungarian Baptist Aid
- Hungarian Trade Union Confederation (MSZOSZ)
- Hungarian Women's Lobby
- Menedek Hungarian Association for Migrants
- MONA Women Foundation
- NANE Association
- Terre des Hommes

However around the inter-ministerial policy table frequently it is only the International Organisation Migration (IOM) representing external interests attending. IOM would like to see this remedied with a much wider engagement of the various NGOs offering levels of support and recovery services to vulnerable trafficked groups or individuals.

14. Stand out issues

Best Interest Determination

Terres des Hommes recently commissioned a study under the European wide Mario Project highlighting key concerns around the best interest determination procedures that it singled out as one of the 'stand out' shortcomings of the Hungarian asylum system. In the development of a 'best interest' determination, all stakeholders concerned with any given child are brought into the determination, something not present currently in Hungary.

Age Assessment

Furthermore *Terres Des Hommes* points out that there is a critical lack of resilient age assessment procedures in Hungary. Asylum procedures regarding minors is the practice of age assessment. At the time of the 2016 report, there was no regulation of age assessment through binding protocols that provided for multidisciplinary examinations where factors are taken into consideration are not only medical.

Finally the *Terres des Hommes* noted that minors are not provided with any legal remedies against the result of the age assessment which may be adverse to their interests. *Terres des Hommes* encouraged Hungarian policy and law-makers to seek further avenues to remedy these shortcomings by establishing a multidisciplinary age assessment mechanism.

Refusal at the Border

In the pre-Transist zone of Hungary there have been a number of incidents recorded by *Terres Des Hommes* in the Mario Report, that of migrant families with children

which it called on the Hungarian authorities to address. The recommendation of the TDH report was to see Hungarian authorities providing migrant families and Unaccompanied Minors with ‘humane and child-friendly reception conditions and basic services at the border’ . The growing concern amongst Human Rights advocates picking up on reports such as those from *Der Spiegel* commenting on increased policing of the Italian-Hungarian border through the Brenner pass, and already voiced by the United Nations High Commissioner for Refugees (UNHCR) and Human Rights Watch is about potential Human Rights Violations at the border. Certainly it has now become significantly more difficult for unaccompanied minors to gain access to Hungary from the Southern border with Italy. This is something which a watching brief is urgently required to undertake, and the argument made for access for those children seeking to reunite with family.²⁶⁵

Recent changes in Asylum and Immigration Regime

The Hungarian asylum procedure is one of the fastest in the EU, with one instrument of administrative decision making and one instance of judicial review carried out by the Office of Immigration and Nationality (OIN). The Hungarian asylum law has accelerated border procedures, and carries a notion of the ‘transit zone’ which was introduced through amendments to Act LXXX of 2007 on Asylum Act in 2015.²⁶⁶

The OIN is also in charge of operating reception centres. It closed asylum detention facilities for asylum seekers. The asylum procedure is a single procedure where all claims for international protection are assessed, with the same procedure for deciding both refugee status and any subsidiary protection. The asylum procedure commences with the assessment on whether a person falls under the Dublin procedure. If not, it moves into whether the application is inadmissible or whether it can be assessed in an accelerated procedure of 15 days. If the application is inadmissible and no decision is taken in the accelerated procedure then normal procedure runs out in 60 days.

- a. Minors travelling with their families and unaccompanied minors are automatically considered vulnerable applicants with special needs under the Asylum Act and the Third Country Nationals (TCN) Act
- b. Under the law, vulnerable applicants are granted certain additional procedural safeguards (however it is noted by *Terres Des Hommes* that these safeguards may not be entirely observed by authorities.)

²⁶⁵ HOMMES, T. D. 2016. Research Report: Children on the Move in Hungary Budapest: Terres Des Hommes. P5

²⁶⁶ UN High Commissioner for Refugees (UNHCR) Hungary as a country of asylum. Observations on restrictive legal measures and subsequent practice implemented between July 2015 and March 2016 May 2016 <http://www.refworld.org/docid/57319d514.html> (accessed September 1st 2017)

- c. Vulnerable applicants are exempted from the border procedure in the transit zone
- d. Unaccompanied minor's cases should be given priority (according to Section 35 (6) of the act
- e. Unaccompanied Asylum Seeking Children (UASC) are accommodated in a designated child-protection facility with childcare professionals..
- f. UASC have access to citizenship with favourable conditions, and entitled to request naturalisation after 5 years residence in Hungary²⁶⁷

Unaccompanied minors registered in the Transit zone (at the border or at airports) numbered 103 between 15th September 2015 and 24th July 2016. Unaccompanied children seeking asylum in the period 1st to 31st January 2016 soared to 994.²⁶⁸

In terms of official procedure all UAMs are appointed a child protection guardian within 8 days of lodging an asylum request. This guardian is independent of the facility where children are designated protection in Fot. With the rise in numbers of UAMs in 2016 there were significant delays, which the Hungarian legal system has been keen change to insist on the 8-day deadline to reduce the time of extreme vulnerability on the part of minors.

Since the early autumn of 2015 guardians affiliated to the *Budapest Child Protection services* (TEGYEXZ) have become more active and visit weekly the facility in Fot to meet the children. Although not asylum experts they are working with other NGOs and building multi-agency capacity around protection.

According to the Hungarian Helsinki Committee the legal amendments which Hungary enacted between April and June 2016 have resulted in 'a politically motivated dismantling of the Hungarian asylum system begun in 2015, aiming to deter people in need of international protection from seeking refuge in Hungary'²⁶⁹

²⁶⁷ Section 4(\$) of the ACT LV 1993 Hungarian Citizenship 1st October 1993

²⁶⁸ HOMMES, T. D. 2016. Research Report: Children on the Move in Hungary Budapest: Terres Des Hommes.p9

²⁶⁹ <http://www.helsinki.hu/wp-content/uploads/HHC-Hungary-asylum-legal-amendments-Apr-June-2016.pdf>

	2015	1 st January – 31 st July 2016
Protection granted	617	252
Asylum seekers under 18 yrs	8791	6479
Asylum seeker registered as UAM	8791	865
Protection granted to UAMs	11	11
Number of UAMs staying in Fót	2422	1098

Overview of the changes in the asylum system 2015-2016

Hungary has enforced new rules established under Government Decree 191/2015 regarding lists of safe countries of origin and safe third countries. It has designated Serbia safe and consequently all applications of asylum seekers coming through the Serbian route are inadmissible. Similar closure and rejection follows the vast majority of those seeking entry to the rest of Europe through Hungary via the Italian borders as reported by *Der Spiegel*.²⁷⁰

As of the 1st June 2016 only unaccompanied minors under international protection (both refugee and beneficiaries of subsidiary protection) who have functioning state-provided integration scheme in the framework of after-care measures, permits young adults with child protection histories access to State support up to the age of 24.

Children travelling with their families may be detained for a maximum of 30 days in an immigration detention facility. More recently the detention of families is not a typical feature of the Hungarian asylum regime.

In this climate of a generally more restricted approach to receiving asylum seekers, the Criminal Procedure Code which requires that any coercive measures, including the forced return of those who are presumed to have crossed border fences which were established along the Hungarian Serbian and Hungarian Croatian borders taking effect on 15th September and seen to be in clear violation of Article 31 of the 1951 Refugee Convention and EU law, the special protections and rules pertaining to minors are not currently being met in any of the criminal procedures now relating to border closures. This means that currently in Hungary there is no requirement to appoint a guardian for children under 18. Parents or legal guardians cannot exercise their rights related to the case of a minor even if they reside within Hungary. This is now seen as putting UAMs at risk of trafficking seeking to access family

²⁷⁰ <http://www.spiegel.de/international/europe/migrant-path-in-europe-ends-at-brenner-pass-a-1166259.html>

reunification. These efforts are undermined by Hungary's more restrictive policies. Those who are seeking the protection of the Hungarian State are being ejected back into Serbia, Croatia and Italy. They will continue to seek access into other countries where they believe they will be able to find education, future employment and protection.

Decline in Inter agency and Civil Society stakeholder co-operation

Since the change in legislation in 2014 – the report from *Terres des Hommes* notes a marked decline in Inter-agency and civil society co-operation. This was underway when the GRETA assessment took place in 2015. This is something to be regretted. It needs to be addressed with some energy by the Catholic church where it can add its advocacy around the importance of the Multi-Agency co-operation. GRETA notes as a clear risk factor the decline in civil society protection against Human Trafficking, which is part of the four Ps (protection, prevention, prosecution, partnership) of countering trafficking risk across all age groups. GRETA suggested bringing alongside Trade Unions to raise awareness of labour trafficking together with raising civil society awareness around the different aspects of Human Trafficking and child trafficking risks. These are not appearing in the paltry figures of detection and prosecution of trafficking in the country.²⁷¹

In the transit zones, reports from *Terre des Hommes* note a lack of transparency in relation to granting access to humanitarian relief organisations and volunteers. Further there is a widespread concern amongst Human and Children's Rights groups about the welfare and security of children in these and pre-transit zones on the other side of the Hungarian border – particularly in Serbia and Croatia.

Push back incidents appear to have increased significantly since August 2016 when the political climate in Hungary regarding the 'surge' of Mediterranean-fueled movement North into Europe clearly turned, with reports of Hungarian authorities and para-military groups enforcing refusal of entry at the Serbian border with 'pepper spray – and some even attacked by dogs.'²⁷² In July 2016 the UNHCR raised concerns about the death of a young Syrian man seeking to cross the Serbian-Hungarian border.

Human Rights Watch 2016 reported that with respect to the law of July 5th 2016 'families with underage children are routinely pushed back by police and army personnel and end up stranded in the mud outside the Tompa and Roszke transit

²⁷¹ GRETA 2015a. Report Concerning the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary. Secretariat of the Council of Europe Convention on Action Against Trafficking in Human Beings

²⁷² <https://ataltszo.hu/2016/08/26/kek-egyenruhas-rendorok-kutyakkal-okoil-el-es-gazsprevel-verik-vissza-a-menekulteeket-a-szerb-magyar-hataron/>

zones without any substantive aid or shelter provided by the authorities'.²⁷³ Estimates at the borders rely on figures generated by NGOs working in the sector. A hugely disturbing figure in this area from the research on 'Children on the Move in Hungary' stated that 'given the estimation of all humanitarian aid workers at the Serbian-Hungarian border that around one third of the migrants are children, we may conclude that even with the most careful estimation, hundreds of children could be pushed back since the 5th July 2016.' In conclusion the report from *Terres des Hommes* noted that despite the lack of availability of official statistics, 'routine pushbacks of children to Serbia gleaned from interviews and testimonies, suggest that the right of children to access territory and to protection is violated equally as that of adults' by the Hungarian authorities.'²⁷⁴

This is obviously an area of concern which the Vatican will want to turn its attention to as the flow of those seeking asylum and refuge in third countries continues through the Mediterranean and Balkan migratory routes which are delivering minors at the razor-wired borders of Hungary.

Appointment of Guardians.

Although the provision of guardians has been in place for minors since 1997, in 2015 it was noted in the Greta report that there have been considerable delays in the appointment of Guardians. This has resulted in lengthy procedures with the result that confirmed asylum-seeking unaccompanied child can reach 18 before a decision is made around a claim. Those reporting to *Terres des Hommes* view this delay as a factor that contributes to children's decision to leave Hungary before a decision is taken on their application – thus reducing Hungary's capacity to offer strong safeguarding as noted in the Rights of the Child, the 1951 Refugee Convention and European Legal framework around the protection of the child.²⁷⁵

The GRETA report 2015 provoked a response from the Ministry of Human Capacities with further information to the monitoring team: 'In order to ensure equal access to services and rights by migrant and refugee children the scope of the Child Protection act (XXXI of 1997) now extends to migrant and refugee children living with their family in Hungary and also to unaccompanied minors. Legal representation of unaccompanied minors, according to this correspondence, shall

²⁷³ HOMMES, T. D. 2016. Research Report:Children on the Move in Hungary Budapest: Terres Des Hommes. P24

²⁷⁴ Ibid p25

²⁷⁵ HOMMES, T. D. 2016. Research Report:Children on the Move in Hungary Budapest: Terres Des Hommes.

be carried out by the child protection guardian, regardless of the place of care of the child.²⁷⁶

Under the Child Protection Act of 2011, guardians are responsible for the full-scale legal representation of the child, for handling the child's assets and observing his/her best interests. Any failure to act with equivalence to the requirements of migrant and refugee children's needs in relation to being unaccompanied, or at risk of trafficking compared with that of a Hungarian National is something in clear contravention of the law.²⁷⁷

[Addressing the Dis-interest of the Roma Child](#) in the Hungarian Child Protection Systems,

[Addressing the 'criminalisation of minors'](#) and the clear ethnic and gendered nature of the dominance of that criminalisation – 'prostituted female sexual services' frequently involving Roma minors.

[Addressing long term protection for those minors](#) who are discovered to have been trafficked. Placement in suitably trained and protected foster homes. Risk assessment for onward trafficking, and child protection processes put in place with 'Best Interests' of the Child to the fore.

[Provision of sustained and wide reaching multi agency Training](#) in identification, protection requirements, and recovery needs for first responders and front line professionals in social protection, policing, border police, prosecution services, judges, and health sector.

[Development of a strong network of IGOs, and NON Governmental Organisations](#) with sustained and clear communication across agencies and government departments, to isolate key blocks in delivery of trafficking protection, and safeguarding of minors caught in Human Trafficking networks, either nationally, in transit, or internationally. The importance of collaboration, refusing silos, or hierarchical obfuscation around working with Human Trafficking challenges. The requirement for auctioning legislation and building in clear accountability for addressing the realities of Human Trafficking of minors in all its forms.

²⁷⁶ GRETA 2015b. Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary

²⁷⁷ Ibid p57 para 154

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Report compiled by Rev Dr Carrie Pemberton Ford with the assistance of -
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A country overview.

Italy is located at the centre of the Mediterranean Sea and shares borders with France, Switzerland, Austria, Slovenia, San Marino and Vatican City. The major cities are Rome (capital) with a population of 3.718 million, Milan 3.099 million, Turin 1.765 million, Palermo 853,000 and Bergamo 840,000(2015 estimate). The National institute of Statistics in 2016 estimated the population density at 60,656,000 residents with non-nationals currently constituting 8.3 % across the mainland and the islands. In 2015 the World bank estimated that persons aged 0-14 constituted 13.71 % of the Italian population, whilst persons who are between 15-24 years constitute 9.74%, 25-54 years 42.46%, 55-64 years 12.73% and 65 and over at 21.37%, based on the United Nations' Population Division's World Population Prospects.. This demography signals some future challenges for Italy, like the rest of Europe around ageing National populations, with unequal pressures being placed on the younger generation to finance social protection, alongside fulfilling State production aspirations. The overwhelming percentage of the population, 87.8% identify as Catholic, 5.8% as atheists, currently only 2.6% as Muslims (although recent migratory movement is making a small indent in this percentage – as is the rate of reproduction which is differentiated across religious affiliation), and 3.8% practise other religions.

Trading Economics recorded the GDP for 2013 as 2130.49 billion US dollars, for 2014 as 2149.81 billion US dollars, 2015 experienced a decline to 1821.50 billion US dollars. Notwithstanding the GDP value of Italy represents 2.94 percent of the world economy. Basically, the Italian economy is driven by agriculture, manufacturing, construction and services- which ranks as the highest yielding sector with 266361 EURO Million in the first quarter of 2017. 4.5% of Italy's GDP is dispensed on education and 9.2 % is allocated to health expenditures. The migration which Italy has been experiencing from the Mediterranean route, has attracted significant central European Commission funds, which is poorly understood by the host

population, and would reward some further study, to understand the full impact which migration is having on Italy's economy.

The Italian unemployment rates fluctuate seasonally, but in April 2017 it fell to 11.1% from 11.5 % in March 2017, the lowest unemployment rate since September of 2012. This represents the number of people unemployed having decreased by a further 106 thousand to 2.880 million with those in employment increasing by 94 thousand to 22.998 million. The employment rate rose .2% to 57.9 percent from 57.7 percent in March 2017. Despite being apparently 'on the turn' these statistics still reveal Italy's overall employment rate as one of the lowest in the Euro area, and the way in which the migrant populations are, or are not, being counted in this data is a consideration which should inform some of the analysis around how integration is being managed by politicians in Rome and by populations where dispersal and reception centres are situated across mainland Italy, the islands of Sardinia and in particular the chief point of disembarkation, Sicily.

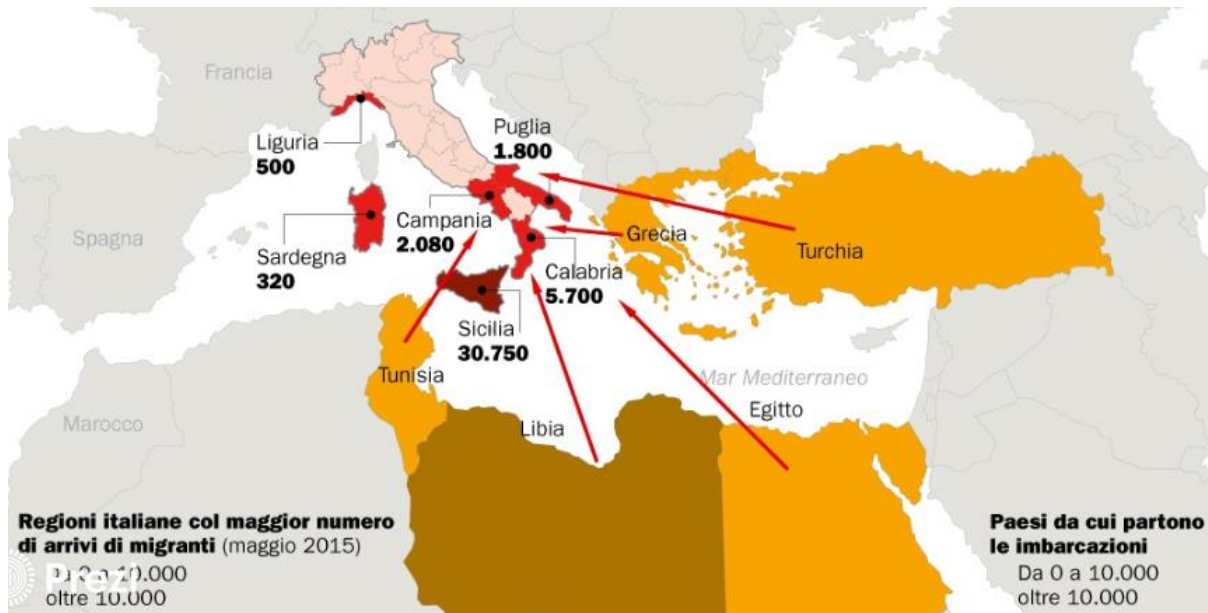
It is widely accepted that Italy has been at the forefront of migration flows into Europe over the last four years. There is an ongoing shift of migration away from Greece, Malta and Spain, previously destination countries for those undertaking the hazardous Central Mediterranean route. Recent destabilisation of the relatively stable Libya under the dictatorship of Muammar Gaddafi, triggered a surge in migrant smuggling through Libya across the Mediterranean into Italy. Many experienced horrendous episodes of incarceration, torture, kidnap, rape, intimidation and ransom-style extortion as they undertook journeys in 'mercy ships,' European naval operations, and unsuspecting merchant shipping.

The various strategies of *Operation Nostra Mare* (literally 'Our Sea,' by the Italian Navy) *Operation Triton*, funded by the EU but with fewer resources than *Nostra Mara* which was funded from Italian exchequer, and more recently European Union Naval Force Mediterranean (EUNAVFOR Med), also referred to as *Operation Sophia*, which aims at neutralising established refugee-smuggling routes in the Mediterranean. This is done by turning back smuggled boats and interdicting the smuggling rackets inside Libya, Tunisia and Egypt. Recent decreases in migration in the last quarter of 2017 indicates that this has interfered with the 'offloading' of people in migration into the Mediterranean, but tells us little as to the current 'stockpiling' of people along the smuggling trail, in Morocco, Niger and in Libya itself.

In 2013 the number of migrants arriving by sea to Italy was a mere 42,925 many of whom landed on Lampedusa before being redistributed across Italy. In 2014 the number had climbed four-fold to 170,100, with a dip of 20,000 to 150,317 in 2015,

and a resurgence to over 165,000 in 2016. As of 1 January 2017, there were 5,047,028 foreign nationals resident in Italy. This figure amounted to 8.2% of the country's population and represented an increase of just under 100,000 (92,352) over the statistics of 2016. These figures include children born in Italy to foreign nationals (who were 75,067 in 2014; 14.9% of total births in Italy), but exclude foreign nationals who have subsequently acquired Italian nationality; (129,887 people in 2014). Around 6.2 million people residing in Italy have an immigration background (10% of the population) but this does not include those who are currently living without papers in Italy, upward of 600,000. Migrants across Italy are distributed across the regions, with reception facilities and essential support centres (education, social protection, and health) deployed across local civic units. However, the support for those in migration varies by region as local politics has an impact on how reception and integration. Continued pressure felt by Italy with rising numbers making the North African migratory passage across the Mediterranean poses a challenge, whilst Northern borders are close doors to receiving third country nationals. The most recent demonstration of resistance to migrants has been in Macerata, with a racially motivated attack on migrants in the centre of Italy. Here the assailant had clear links with the *Lega Nord per l'Indipendenza della Padania* – whilst those he attacked were from Gambia, Nigeria, Ghana and Mali.²⁷⁸

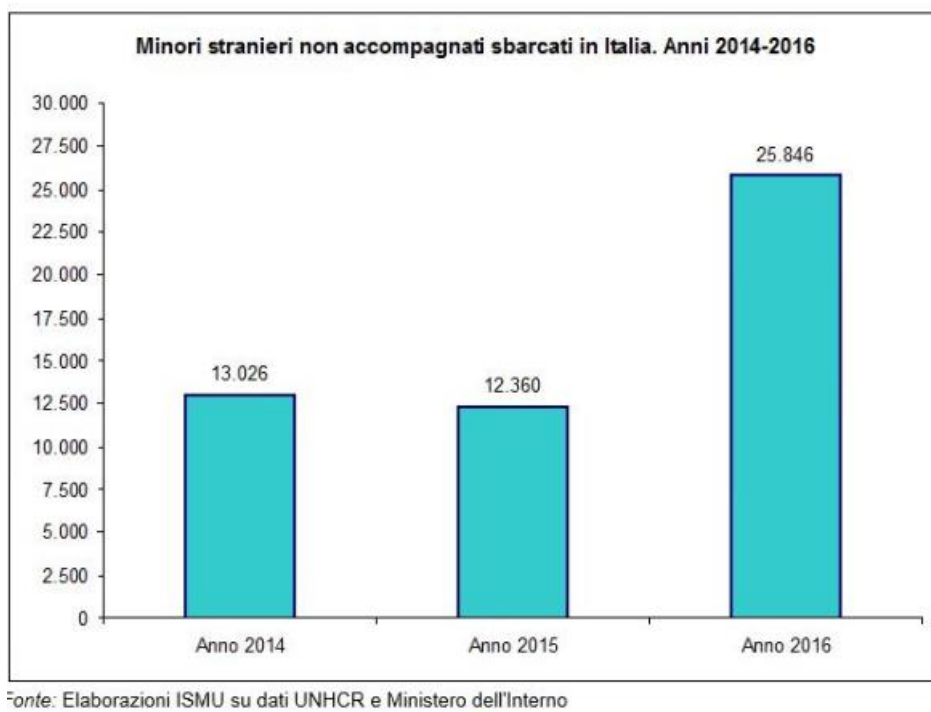
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The following graph shows that within the data on migration there are a steadily growing, often hidden number of unaccompanied minors. The speed at which these numbers have accelerated poses the challenge currently facing Italy in its reception processes and onward 'duty of care' towards minors arriving in country. Many have survived traumatic experiences in their migratory journeys, both in mainland Africa and in sub-standard vessels on the treacherous sea of the Mediterranean.

²⁷⁹ https://www.washingtonpost.com/world/europe/the-latest-italian-police-no-remorse-from-far-right-gunman/2018/02/04/46deebd0-09a3-11e8-998c-96deb18cca19_story.html?utm_term=.4dc7ae71f71e



In 2016, the Italian authorities indicated a total of 159,441 migrants that were accommodated in different facilities across Italy. Overall, the number of asylum applications in 2016 (until 16 September) totalled 78,314, of which 11,422 were female. These applications are frequently unsuccessful. With the current uncertainty in Libya and across North Africa, returnees have not been as efficient as the Italian State would like. This has a 'destabilising' effect on the response of the 'host communities' who feel that if the numbers of forced migrants keep arriving, there will be a fundamental shift in the demographic make-up of the country. Work is undertaken by the *Pew Foundation* on cultural perceptions and anxieties across Europe in the constituency of recent migration. This has also included higher ratios of Muslim refugees and economic migrants. Both categories, should be considered by those in Religious leadership roles, to develop strong collaboration with the Religious bodies emerging to support this recent migration, and to mitigate ghettoisation, with all its attendant risks to long term peaceable integration.²⁸⁰

Asylum applicants are mainly from Nigeria (nearly 15,000 applicants –majority female) and Pakistan (nearly 10,500 majority male). Others from Gambia, Ivory Coast, Senegal, Eritrea, Mali, Guinea, Bangladesh, Ghana, Afghanistan and Ukraine.

²⁸⁰ <http://www.pewforum.org/2017/11/29/europes-growing-muslim-population/>

This influx of migrants has raised an alarm in Europe that Italy is a fresh corridor for trafficking into western and eastern European countries, exploited egregiously by networks of traffickers from Africa and Eastern Europe. We shall be looking across the survey at some of the processes which Italy has responded to with regard to unaccompanied children, and how this has impacted on a change of legislation in the country.

The majority of unaccompanied children are *de facto* looked after in Sicily – a where there is high rates of unemployment amongst the youth for a number of years.²⁸¹ Funding supporting the interventions of minors comes from Brussels via Rome. Understanding this process is important. It indicates how politically heightened numbers of migrant minors are currently being managed by Italy, but also to see how this is communicated to the ‘host’ community, many of whom have been experiencing social protection recession themselves. These factors are vitally important to address in order to open up the first steps of welcome, and the opportunity for social integration and societal enrichment.²⁸²

Furthermore, in a country which has ‘Mafia’ in its civic processes, large amounts of finance from Brussels is a cause for some concern. It invites those in reception centres and first-response networks to be hypervigilant in terms of financial probity and transparency.

Researchers Maculan, Lozzi and Rothman agree that a leading reason why Italy is such a popular transit nation for traffickers is because street prostitution is legal. Running a ‘fleet’ of young women in a range of locations across Italy does not automatically raise the interest of law enforcement.²⁸³ Furthermore, the culture of the country is such that ‘male demand’ for prostitution, street or brothels is culturally accepted though not explicitly condoned by the Religious elite, this still being a Catholic country. Nevertheless despite the ambiguities generated by a strong disposition towards marriage and ‘family values’ the ‘market’ for prostitution and concubinage seems well established. This ‘market’ appears able to absorb increasing numbers of young women and girls.

²⁸¹ Centro Astalli conference on Migration and Unaccompanied Children September 2017

²⁸² *Migrants' health: sense of community and resilience as protection factors: a research contribution*

Cinzia Novara, Maria Garro, Costanza Scaffidi, Pemberton Ford, 2018

²⁸³ *Mixed Gender Shelter Based Service for Child Survivors of Commercial Sexual Exploitation in Italy: a case study.* Barbara Maculan, Eleonora Lozzi and Emily Rothman. Journal of Social Service Research 2017 Volume 43 (3) 358-368 p 362

Fifteen years ago a leading NGO Nigerian abolitionist Esohe Aghatise, noted the steady decrease in age of young women migrating into Italy from West Africa. She noted:

"The last few years have seen an increasing number of very young girls, in most cases minors, being trafficked to satisfy the ever more exigent requests of the clients. These are often ingenious, semi-illiterate girls who have not even, in most cases, had the possibility of a period of urbanization before they found themselves in huge urban centres such as Turin, Milan or Rome."

²⁸⁴

Meanwhile since 2015 city planners in Italy have responded to the ever-increasing presence of Nigerian, Ghanaian, Cameroonian and Cote d'Ivoirean youngsters populating the streets with 'street traded' transactional sex, alongside European minors, young women, (mainly from Romania and Albania), and a percentage of under-remarked male minors pimped for sex, with legislation which

"provides for the recognition of prostitution" as a regular job, implying that "sex workers must respect labour market rules" The measure, would allow sex workers to practice in public and private places and would have to give clients a receipt and have regular medical checkups. "The most important part of the proposal is that it provides for very harsh penalties for exploiters and ring leaders", said Cirinnà, who also spoke in favour of a recent proposal to create a red-light district in Rome's southern EUR neighbourhood. ²⁸⁵

Data Collection

2.1 *Is there a Central National Registration system in the country for victims of trafficking?*

Yes, The Department for Equal Opportunities produces the official data of the victims of trafficking.

2.2 *If YES, where is it located?*

The Department's head offices in Roma, Italy

2.3 *Is the data properly disaggregated by gender and ethnicity*

²⁸⁴ *Trafficking for prostitution in Italy: concept paper.* Esohe Aghatise President Associazione Iroko Onlus, Italy (Nigeria) 2002.

²⁸⁵ http://www.ansa.it/english/news/politics/2015/02/11/prostitution-bill-to-be-debated_4468f920-0da9-4f66-9fff-b6cb9100b400.html

The data which is held by the Department for Equal Opportunities is disaggregated by gender, and nationality. It is currently being updated for enhanced access. The data reflects the ethnicity of the victims with leading representation from Nigeria, Albania, Morocco, Moldova, Russia, Romania, and the Ukraine. Gender and age segmentation is captured and recorded properly, but routine recording of this data is still some way off. The US TIP report 2017 challenged the Italian government to pay attention to a range of provisions which the report's authors considered not well managed, including procedures of first identification of migrants. The report draws attention to the difficulties being faced in reception centres. Here Government-supported NGOs remain underfunded in light of needs and many victims among vulnerable groups went unidentified, especially at reception centres charged with screening and processing the large number of migrants and refugees.²⁸⁶

2.3 *What FORMS OF EXPOITATION are identified?*

(e.g. sexual labour; domestic servitude; slavery; begging for example, along with Illegal activities/criminal (drugs/ distraction crime/social protection fraud), forced marriages, illegal adoption or other?)

All of the above are identified in Italy's data collected around Human Trafficking. However the gaps in the data remains a significant challenge for researchers and policy makers alike. This is pointed out in US TIP and may be due to significant underfunding in early identification, corruption practices in the processes of criminal jurisdiction or the regulatory authorities.²⁸⁷

Furthermore, drug trafficking, racketeering and 'Oil bunkering' are a part of the overall matrix of criminality which surrounds the trafficking of persons endured by thousands who are brought into Italy. The majority come through the middle passage of the Mediterranean, having endured imprisonment, rape, and beatings in Libya take the harrowing journey through the old Silk routes.²⁸⁸

Italy has not yet passed a law criminalizing 'child' trafficking. However, Italy has laws which criminalise different forms of exploitation involved in child trafficking. For example, Law No. 148 of May 25, 2000 is based on the ratification of the Geneva

²⁸⁶ US TiP report – recommendations for Italy 2017

²⁸⁷ US TiP report – recommendations for Italy 2017

²⁸⁸ For further information and background on the hardships endured through the Middle Passage – please read The New Odyssey: Peter Harding 2016.

Convention No. 182.²⁸⁹ Another law lists unaccompanied minors among persons to be considered in vulnerable situations (for legal protection) in human trafficking.²⁹⁰

The US TIP report notes that there is significant under-reporting of the demand for 'child sex tourism' and a real requirement to see an increase in effective prosecutions Italians and others who purchase sex from children abroad. Alongside this is an enduring problem of Nigerians brought into Italy for sexual exploitation. The TIP report sees the need for protection agencies to pay greater attention to the numbers of males caught up in a variety of trafficking situations. It would seem that males are neglected substantially in the provision of safe housing and protective services. These services do not provide strong intervention or understanding of the landscape or the range of abuses to which males are exposed. With the majority of migrants accessing Italy being male and this preponderance matched in the movement of unaccompanied minors, it is vitally important that the gendered distribution of trafficking abuses be fully understood. All forms of human trafficking requires robust addressing by law enforcement, regulators, civil society so that appropriate recovery procedures are put in place for all. There seems to be a gap in delivery in this area. This requires further examination and recommendations for action.

Similarly, Article 5(d) states that when considering vulnerable persons, the age of such persons must be considered in the process of deciding commensurate prosecution and protection measures. Whilst, Article 5 (2) provides for the implementation of 2011/93/EU legislation from the European Parliament dated 13 December 2011, which addressed drug abuse, sexual exploitation of children and child pornography. Criminal code Articles 600 criminalises child prostitution and pornography. We shall be referring to the recently introduced Zampa Legislation of 2017 later in this article. This legislation may give minors greater protection and a level of continuity as their cases start to be dealt with in due process. This protection was previously unavailable, due to the potential risk of return to their country of departure, now effectively prohibited until at least the age of majority.

The executive arm Presidency of the Council of ministers can compensate financially victims of trafficking.²⁹¹ Similarly, the government has taken an initiative to promote a series of actions to study, analyse and identify suitable methods to address trafficking in Italy. In the last decade, the Interior ministry has instigated a working group to study trafficking women and children and to generate potential strategies to mitigate multiple offences of trafficking. There is a sustained and collaborative effort initiated from the presidency, working across ministries of Internal Affairs, Labour and Social Policies, Equal Opportunities and Social Solidarity,

²⁸⁹

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to form an inter-ministerial commission to coordinate action against trafficking of women and children for sexual exploitation. Human trafficking is configured in Italy addresses trafficking of women and children into the sex industry in particular. Public energies in addressing children trafficked into criminality does not receive the enough attention, or males and females caught in labour exploitation of many kinds. This is an area which clearly requires further attention.

The *questore* (police prefect) is empowered to issue a special residence permit to foreigners if they experience violence or exploitation or that there is a real danger to the person's safety. In 2012 there were 805 human trafficking cases and 121 convicted traffickers. In 2013, there was a build-up of 1,024 prosecutions, with 74 successful convictions. There were 108 affirmations of convictions, realised by the appeal court. However the judicial and enforcement processes are time consuming and expensive. It is not clear how much extra capacity or appetite there is in the system for further work in this arena. In 2007, in one case on child trafficking the Italian court sentenced a group of human traffickers to up to 12 years' imprisonment for forced prostitution and exploitation of 200 Roma children. The court has also prosecuted persons for sexually exploiting children by coercing them into performing sexual acts in exchange for small gifts. However there has not been sustained attention on the sexual abuse of children in the form which has been seen in some other Northern economies, and this may well be a latent area of investigation which requires some extra resources and concerted attention from the public authorities.

The government clearly recognises the phenomenon of child trafficking. The U.S Department of State attests that the government of Italy fully complies with the minimum standard for the elimination of trafficking noting that the government has: identified trafficked victims, investigated, prosecuted and convicted offenders under its anti-trafficking laws.ⁱ

The Italian government has a formalised 'task force' to investigate human trafficking and there is a co-ordination body for the protection of trafficked victims working with children and adults. This work is supported through a government-funded national toll-free anti-trafficking helpline (2000). This helpline means a rise in reporting and a way of offering opportunities to victims for escape in forced prostitution. Data is available for January 2001 only. This data shows the service handled 27,613,000 calls and gave assistance to more than 3,153 trafficked victims. There have been few public-awareness programmes, something which the US TIP report comments on as an area for improvement. The 2007 *Project Pentametro*, was an 'uplifted' time for activity, in co-ordination with the lead *Operation Pentameter* undertaken in the UK, which drew attention to the predominance of commercial sex in human trafficking, and sought to raise awareness of men as potential 'customers' of human trafficking. However since January 2014 government focus has been turned toward increased numbers of migrants arriving across the Mediterranean.

Many supported by the lifesaving *Mare Nostrum*, with its aim to save lives but also to stop human trafficking from its North African portal across the Mediterranean, at a cost \$11.5 million per month. The policing mandate was meant to apprehend human traffickers 'piloting' the boats. However this mandate was subverted by those smuggling migrants from North Africa to Italy, placing satellite phones and the steerage of the boats frequently in the hands of minors, thus rendering the *Mare Nostrum* strategy of prosecution null and void. A number of trials are set in motion where children are placed under prosecution for trafficking. The tactic deployed by the traffickers to 'disappear' from their shipment of cargo by deploying children, frequently terrified, to phone coastguards for assistance and rescue, has kept the 'transportation facilitators' in the safety of Libya, Egypt or Tunisia, and well away from prosecution when migrant boats are intercepted.

2.4 WHO is responsible for collecting this data?

The police collect data as they serve as first reception or point of contact for the victims; Operators of the toll-free helpline and the Public Prosecutors' Offices. All data collected is sent to and collated by the Department of Equal Opportunities of the Presidency of the Council of Ministers. Currently this is not easily available for those working to understand the extent of human trafficking in Italy.

The Department for Equal Opportunities, in collaboration with the National Statistics Institute (ISTAT), is establishing a national electronic database which will focus on victims, but also on traffickers, investigations and convictions. It is hoped once this system is embedded that the Department will be able to monitor the number of victims assisted at the national level. It may also reflect on the services provided, and analyse new trends of trafficking.

What is clear from both the focused workshop on '*Protecting unaccompanied minors in migration in Italy*' convened by the *Centro Astalli* in Autumn 2017 – and from the reports coming from 2017 TIP report, there is a big gap between theory and practice in relation to identification, management and protection of vulnerable migrants. Part of this is down to the mis-match between available funding and the numbers 'processed' within the Immigration system.

'In 2016-2017, the government did not report how many victims it identified or statistics on the form of trafficking or the age, gender, or nationality of victims identified or assisted.'²⁹²

The 2016 TIP report had the following recommendations to put into the procedures of a country where despite significant migratory pressures raising the human

²⁹² US State Department TIP country report Italy 2017

trafficking risk amongst children and adults, Italy does not have a Rapporteur on human trafficking nor a dedicated Counter Human Trafficking Commissioner. The 2016 report urged Italy to:

- Continue to vigorously investigate and prosecute trafficking cases and ensure convictions of traffickers result in dissuasive sanctions;
- formalise victim identification and referral procedures and consistently train law enforcement and other officials on their proactive application;
- improve efforts to screen irregular migrants and asylum-seekers to identify possible trafficking victims, particularly in migrant reception and expulsion centres;
- provide adequate long-term funding to NGOs assisting victims;
- develop specialised services for child trafficking victims and expand accommodation for male victims;
- allow asylum-seekers to obtain legal employment while waiting for their applications to be reviewed;
- establish a national coordination structure that involves all relevant public bodies and NGOs;
- allocate sufficient funding towards the implementation of the national action plan;
- make efforts to reduce the demand for child sex tourism;
- and implement nationwide awareness-raising activities on all forms of trafficking.²⁹³

In 2016, Police reported assisting 101 trafficking victims throughout Italy. The Department of Equal Opportunity (DEO), responsible for coordinating protection efforts, reported government-supported NGOs assisted 851 potential victims in the same year (which likely included the 101 assisted by police). This figure compares with 800 victims assisted in 2015. However, this figure does not clearly differentiate between victims of trafficking and other forms of exploitation. This is an area for significant improvement in understanding the forms of crime which ‘survivors’ are offered as victim support. Of the total 851, 172 were men and seven transgender. Children represented nearly 10 percent of the victims receiving assistance, majority boys who were forced to beg or commit robbery. This could suggest a potentially substantial area for further work to be undertaken in the sex industry and the criminal activity engaged in obtaining explicit images for pornographic distribution, markets which populate the world wide web, and cause such significant damage to

²⁹³ US TIP report 2016 Italy Country Report.

all it impacts. Approximately 45 percent of the children were from Nigeria, although IOM estimated up to 75 percent of the over 11,000 Nigerian women and unaccompanied children who arrived in Italy in 2016 were trafficking victims.²⁹⁴ The IOM reported an almost 600 per cent increase in the number of potential trafficking victims for sex arriving to Italy by sea. The majority being female minors, who already are subject to violence and abuse on their way to Europe. IOM estimates in this report that 80 per cent of girls arriving from Nigeria– are potential victims of trafficking for sexual exploitation. – Their numbers have risen from 1,454 in 2014 to 11,009 in 2016. This upward trend has continued during the first six months of 2017. Predominantly, the government relied on NGOs and international organisations to provide shelter and services to victims. Most of the organisations cite insufficient funding and lack of a formal referral mechanism as serious problems. Experts reported that reception centres were too few, unsuited for trafficking victims, and dangerously accessible to traffickers to recruit victims.²⁹⁵

The report recommends that the government operates greater transparency in its record-keeping of identified trafficking victims and the wider profile of the migrant population coming into the country , as one step in the path of increasing its ability to respond appropriately to the multiple challenges which it faces.

Apart from the data which the Equal Opportunities of the Presidency is collating, there is data assembled by all the NGOs working in the sector of protection and recovery. This material is assisting those seeking a better understanding of the scale of the challenge facing Italy. It also gives in-depth accounts of those captured and documents in the surveys undertaken during the first few weeks of migrants entering into Italy through the Mediterranean gateway.²⁹⁶ Other data is collected through the GSI (Global Slavery Index), the US State Department TIP report, the UNODC and *Esercito Della Salvezza* (a Christian Association working in 126 countries).

The GSI data estimates there are about 129,600 living in modern slavery in Italy (0,021% country's population or 32.52/100). There are a number of critics of the

²⁹⁴ IOM report {IOM, 2017 #313}

²⁹⁵ U.S TIP report 2017 Italy Country Report.

²⁹⁶ Harrowing Journeys: IOM triptych on immigration and the Mediterranean 2016
 Humanity at a Crossroads :Migrants' journeys on the Central Mediterranean Route The Red Cross 2015
 Mediterranean Human Trafficking and Exploitation Prevalence Survey: IOM Switzerland 2016

way in which GSI data is collected and its estimates generated.²⁹⁷ However these numbers need to be taken seriously as they are deeply disturbing.

The IOM survey undertaken with those rescued in the Mediterranean recorded that 76% of from a total of 1,400 migrants and refugees interviewed in Italy from 24th of June to 3rd August 2016 responded positively to at least one indicator of the presence of human trafficking and other exploitative practices on the central Mediterranean route from North Africa. The data shows a significant gap with data gathered by the police from a total population of over 220,000 migrants who entered Italy during 2016, (and only 101 trafficking victims assisted by State-enforcement services). It indicates the marked difference in reporting and assistance recorded by NGOs during the same period – that multiplied the police data by a factor of 8.

Finally it is appropriate to note that whilst there is significant sexual and labour exploitation across Italy, the data has been disaggregated inadequately, which is another request for urgent attention from the 2017 TIP report. Labour exploitation is well established in certain areas of the country, particularly areas of agricultural harvesting and production, fishing and food processing, textile manufacture and construction. Another significant ‘hidden’ exploitation is in domestic servitude. This is a rapidly developing dimension of ‘employment’ without appropriate documentation and permissions, providing much needed elderly care in people’s own homes, in urban and often inaccessible village communities, where legal redress and advice centres are in short supply. There is also an increasing awareness that forced marriages involving ‘unaccompanied’ children may be on the rise.

All of this underscores the US TIP report calling for *‘increase(d) efforts to screen foreigners working in prostitution as possible trafficking victims; to consistently train law enforcement, migration officers, first responders, and other officials across all regions and localities on identification and referral procedures.’*²⁹⁸

3. PROFILE OF COUNTRY AND ROUTES OF TRAFFICKING

3.1. Is this mainly a COUNTRY OF ORIGIN of victims of trafficking?

No. Italy has become a country where the largest percentage of recorded trafficked victims are either attempting to transit to other EU countries or into Italy as a destination point. However there may be a significant number of trafficking victims

²⁹⁷ {Gallagher, 2017 #314}

²⁹⁸ TiP report 2017 Italy.

of labour and sexual exploitation within the population as yet to be realised. This phenomenon has emerged within the United Kingdom in recent years.

3.2 If YES, List the countries TO WHICH victims are reportedly trafficked?

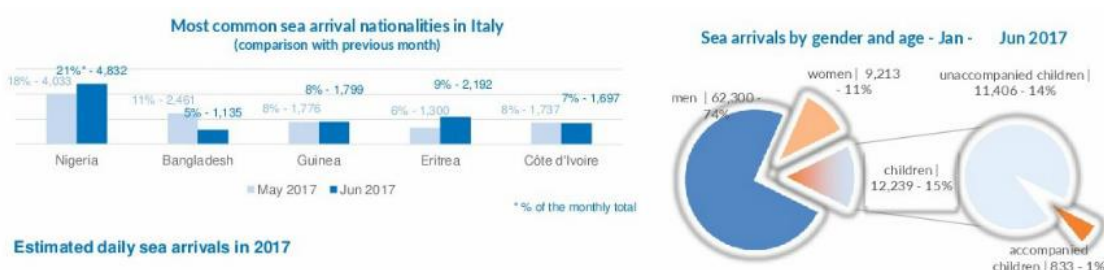
While the answer to question 3:1 is No, there is notable concern from *Europol* that Italy is transit country, particularly for Nigerian women and children who are coming into the country through the migratory route of the Mediterranean crossing as well as through airports. The exact data is not explicit, but many Nigerian women, identified as trafficked victims are in Germany, Denmark and the Netherlands having made the transit from Italy through Lampedusa and Sicily.. Concern is also expressed that some of those who migrate from Sub Saharan Africa may then be moved across to the Middle East, but this route is more likely to bypass Italy and take a direct route through Egypt.

3.3 Is this mainly a COUNTRY OF DESTINATION for victims of trafficking?

Yes., This may not be the intention of many when setting out from Libya or Egypt and then arrive in Italy. *Please note the answer to 3:1.* There is clearly a ‘market’ for those caught in sex trafficking rings in Italy, and there appears to be some elasticity in the facility of the currently ‘closed’ market of Italy to absorb trafficked victims. Many of the identified minors ‘disappear’ from their reception centres in the first few weeks of arrival. This is a significant problem for the authorities when attempting to put appropriate services of care and protection around them.

3.4 If YES, List the countries FROM WHICH victims are reportedly trafficked?

The countries of origin for the migratory routes – with particular reference to minors are



those noted within the data for sea arrivals, including those within the groups seeking asylum but frequently being rebutted but not extracted from Italy after refusal – this includes Nigeria (nearly 15,000 asylum applicants) and Pakistan, (nearly 10,500 asylum applicants), followed by Gambia, Ivory Coast, Senegal, Eritrea, Mali, Guinea, Bangladesh, Ghana, Afghanistan and Ukraine. There is evidence of Albanian and Romanian minors, being trafficked work in horticulture, and some become embroiled in prostitution or street criminality and begging.

The challenge for Italy is that what starts out as a journey of economic migration, or indeed an escape from a malevolent State (as in Eritrea where young men and women face life-long conscription in the military from the age of 14), can turn into a trafficked and exploitative scenario at some point en route, be it in Niger, Libya or indeed in Italy. This is a clear challenge for those who are seeking to make Italy a safer counter-trafficking environment, where recruitment into trafficking is forestalled by strong law-enforcement policies. What cannot be an option is to be passive in the face of the dynamics at work.²⁹⁹ That way lies exploitation at multiple levels.

3.5. *Is this mainly a COUNTRY OF TRANSIT for victims of trafficking?*

Yes, but over the last couple of years there is a closing down of the corridors for movement from Italy into the rest of Europe. Previously, Italy was viewed as a point of access into the Schengen area of EU, and this secured freedom of movement for those who were able to move across borders with Identity cards or passports. However, it is widely understood that the largest proportion of trafficked adults and minors in transit through Italy specifically for sex trafficking are coming from Edo State Nigeria where over 80% of females are identified.³⁰⁰

Between 1 January and mid-September 2016, a total of 27,083 Nigerian citizens landed in Italy. Among them were 7,737 women and 2,319 children. According to the National Commission for Recognition of International Protection, Nigerian asylum applications in 2014 totalled 9,870 in 2014; (18% female), in 2015, there were 17,989 in 2015 (27% female) and in 2016, there were 14,681 up to 15 September (27% female). Out of the total in 2016, 344 received refugee status (3%), 649 were granted subsidiary protection (5%), 2,162 humanitarian protection (16%), leaving 9,477 who were not granted international protection (72%). This left the larger group at the risk of traffickers and open to being exploited for labour. A further figure of 610 could not be traced (5%).

3.6 *If YES, [Yes to which question?]List the countries FROM WHICH victims in TRANSIT are reportedly trafficked?*

Gambia, Nigeria, Pakistan, Bangladesh, Egypt, Eritrea..

3.7 *If YES, [Yes, to which question?]List the countries TO WHICH victims in TRANSIT are reportedly trafficked?*

The answer to this is as above – Italy as part of the Schengen agreement is seen as a gateway to the rest of the countries in Schengen Europe.

²⁹⁹ {Kingsley, 2016 #315}

³⁰⁰ Greta Report 2016 The report on Italy

3. 8. Is there INTERNAL/Domestic CHILD TRAFFICKING reported to take place in the country?

There is some evidence of domestic child trafficking taking place in the country, particularly around the resident Roma populations. In the face of the international trafficking which Italy currently faces this is not one of the areas which the country's law enforcement or social protection agencies are addressing particularly at present.

3. 9. If YES (to 3.8), List MAIN POINTS (towns/cities / regions) reported for Internal/Domestic Trafficking?

Data unknown.

3. 10. Are there particular groups of children reported to be trafficked internally/domestically? (e.g. Nationality? Ethnicity? Gender / Other groupings?).

The 2015 *Save the Children* report noted that there was an 'under the radar' presence of children from Egypt arriving by sea to Italy, whose families have reportedly run up debts to assist them with travel to Europe. These children are exploited in fruit markets, restaurants or car wash services.³⁰¹

Currently with regards to migratory flow, Italy has become a country of destination for victims of trafficking. The Italian authorities reported that in 2016 of 159.441 migrants accommodated in different facilities across Sicily, Sardinia and mainland Italy, 78.314 sought asylum of which 11,422 were female.

The dominant position of Nigerians registered as trafficked across Italy (women and young girls) remains stable at 40% of the total number of declared victims. Meanwhile there has been a significant decrease registered for Eastern Europe nationals (Romania, Albania, Moldova, Bulgaria) many of whom were caught in labour exploitation in horticultural enterprises and food processing in previous years, in the Ragusa area in Sicily, and across areas of intense horticultural production in the rest of Italy. There appears to be a shift in attention from trafficking rings bringing victims from Africa (Nigeria, Egypt, Morocco, and Tunisia) amounting to approximately 60% of the total number of victims currently identified.

Victims coming from Asia (China, Pakistan, Bangladesh, and India) represent approximately 10% of those identified as trafficked. There needs to be considerable caution in considering numbers identified from China due to the 'closed nature' of this particular ethnic group to the wider community.

³⁰¹ Save the Children, *Piccoli sciavi invisibili. Le giovani vittime di tratta e sfruttamento*, August 2015

BeFree Cooperativa Sociale contro Tratta, Violenze, Discriminazione. *INTER/ROTTE. Storie di Tratta, Percorsi di Resistenze*, Rome, 2016.

Sexual exploitation is the most common form of reported trafficking (about 70%). However this may be due to a giving more attention to sex trafficking as a crime and a failure to pay appropriate attention to other forms of trafficking. This point was raised by the US TIP report when it called for greater attention to police, regulators, and immigration front-line office training. The Italian authorities were criticised for not having put sufficient resources into public-awareness campaigns to address indicators of human trafficking in local communities.

Persons who have been found to be trafficked for other purposes of exploitation (forced labour, begging, criminal activities) can find some assistance through the social protection programmes in Italy. While in past years women were mainly exploited into forced prostitution, in 2012-2013, 20% of them were victims of other forms of exploitation (forced labour, begging, criminal activities). As for the gender, the percentage of trafficked men intercepted and identified has increased steadily since 2007 reaching approximately 28% in 2015. Men, particularly from the Maghreb countries, China, India, Pakistan and Eastern Europe are trafficked for forced labour not only in the agricultural sector in southern Italy, but also into the textile industry, construction and other sectors of the labour market in the Northern and Central regions. However, the US TIP report of 2017 was critical of the authorities for not supplying enough training for identification of these forms of labour abuses, and for the lack of appropriate safe housing for them when in the first months identification can lead to successful prosecution cases brought against their traffickers.

The largest numbers seeking asylum were from Nigeria, majority female (about 15,000 applicants) followed by Pakistan (about 14,000). Other countries represented come from Gambia, Ivory coast, Senegal, Eritrea, Mali, Guinea, Bangladesh, Ghana, Afghanistan and Ukraine.

IOM's survey in 2016 conducted with over 1,400 migrants at reception centres, who had arrived in Italy between June and September 2016, showed that a staggering 76% had at least one indicator of having been trafficked or experience of exploitation on the journey to Italy.³⁰²

These indicators included having worked without getting payment; being forced to work against their will; being approached with an offer of employment; or an offer to arrange a marriage; being held at a location against their will by parties other than any relevant governmental authorities.

³⁰² {IOM, October 2015 #256}; {IOM, 2017 #313}

Five percent of the respondents to the survey noted that a family member travelling with them experienced similar situations. Approximately a further 5 percent of respondents reported that they knew of instances where people on the journey were approached to give blood, donate organs or body parts in return for cash.³⁰³ The majority of these incidents took place in Libya or to a lesser extent, in Egypt. Some of those surveyed declared that they had no choice but to give their blood, as they were held captive (in Libya). 81 percent of those who witnessed such demonstrations of ‘coerced blood-giving’ reported that they had been kept in a closed location against their will, such as the enclosed yards or make-shift multiple prison cells that were filmed in secret and communicated through CNN and BBC investigative news programmes.³⁰⁴

4. DATA AVAILABLE – STATISTICS

4.1 Are there official statistics recording the number of CHILDREN that have been trafficked TO or WITHIN the country? (if this is available for 2012 – 2015 or before?)

This data is not available. There is official data available from the Office of Equal Opportunities, but the Police and the Office of Equal Opportunities has been criticised by the US TIP report for a lack of transparency in making these available.

4.2 How are child victims of trafficking IDENTIFIED in the country?

The IOM has developed a set of useful indicators to identify potential victims of trafficking upon their arrival and this list and is continuously updated, based on the evolution of the phenomenon:

- sex
- age (minors often declare adult age)
- nationality and origin (for example Nigerians who are clearly ‘red flagged’ particularly if they are from the States and Cities of Edo, Delta, Lagos, Ogun or Anambra).
- place of departure –time spent in Libya is seen as of critical risk, where not only abuse may occur but entrapment is common due to debts incurred whilst awaiting the ‘boat journey’ across the Mediterranean.

³⁰³ {IOM, 2017 #313}

³⁰⁴ Africa’s Billion Pound Migration Trail <http://www.bbc.co.uk/programmes/b0962gny>; <http://edition.cnn.com/2017/11/24/africa/rwanda-reaction-libya/index.html> CNN News showing Africans being sold in slave auctions in Libya Accessed November 27th 2017

- a low level of education – numbers of years in education.
- Challenging family backgrounds, violence or economic problems
- declare openly to be orphaned
- announce that they have not paid any money for the journey
- have difficulties in recounting their journey, especially the final part. This is particularly relevant for those taking the boats from Libya to Italy.
- when in a group, persons who are more subdued and quiet
- declare that they need to reach a relative (sister or brother) or a friend in Italy or in Europe – family unification can be a ‘smoke-screen’
- exhibit clear behavioral problems (aggressiveness-introversion)
- physical indications of violence/torture on their bodies.³⁰⁵

4.3 Who are the leads?

At the ports – when receiving migrants who have been intercepted in the Mediterranean, or arrived in Lampedusa, there are a number of NGOs who are present for reception and assist with filtering and first assessment.

4.4 What are the difficulties in identification?–

Some 92 percent of children on the move into Italy, with false or no papers, are unaccompanied 14-17 year olds.

One of the problems in identifying children within the trafficking profile of Italy is the numbers of people coming in through the ports, and the pressure on resources at the immediate point of reception and re-distribution across Italy. There have been numerous cases of contested cases around the identification of a minor and clarification of the assertion of age. One of the difficulties is the lack of papers, or presenting false papers, false narratives which some minors have rehearsed from their smugglers or traffickers to facilitate their access to certain countries, or ‘protect’ them during their migration. It is becoming apparent to traffickers that there is greater certainty of a child’s insertion assured into Italy as a minor. At the same time the process of protection around minors is increasing. This fact intercepts

³⁰⁵ {IOM, 2017 #313}

a trafficker intent on exploitation and frustrates their business model. More understanding is required of the shifting dynamics of the business.

New arrivals at risk receive counselling and with changes to the guardianship system, more availability of shelter for unaccompanied children means better protection and shorter times children spend in hotspots. The survey which IOM has developed is deployed on rescue ships and at Port of disembarkation.

Further legislation came into force in January 2017. This provided detailed procedures and guarantees, largely consistent with International Law and recommendations on age assessment for minors. This regulation was not automatically applicable to unaccompanied minors who are not identified as victims of trafficking. There has been significant unease among the NGO communities that all is not aligned in this department in the various regions of Italy. A significant number of minors stay in Sicily as one of the main ports of disembarkation.

The Zampa Law, passed in July 2017, has filled the gap in assistance and assessment for unaccompanied children, introducing important provisions on the age assessment of unaccompanied minors.

It provides that:

- a) a social and medical age-assessment procedure may be ordered by the judicial authority, when there are well-founded doubts about the age declared by a presumed unaccompanied minor and it is impossible to establish his or her age through documentary evidence.
- b) The child must be informed about the objectives, methods and consequences of the age assessment and must be treated as a minor until the conclusion of the procedure.
- c) age-assessment procedures must be carried out with a multidisciplinary approach, by professionals with appropriate expertise, involving a cultural mediator.
- d) The result must indicate the margin of error and
- e) the *benefit of the doubt* must be granted to the child so disputed individual outcomes will defer to the right to be considered a minor.
- f) The final decision on the individual's age, adopted by the judicial authority, must be issued to both the person concerned and the guardian, thus allowing for an appeal.

These new provisions are now present in primary legislation, but from the discussions underway at the Refugees and Unaccompanied minors conference, Palermo in the autumn of 2017, it was clear that they were not yet being implemented consistently. However, the legislation is now in place to back a level of age-assessment procedures which many working in the field

of children's rights in Italy consider as a model of excellence for other European Member States.

The new *Zampa* has undoubtedly been an historic law to boost support and protection for the record number of foreign unaccompanied and separated children arriving in Italy – nearly 26,000 in 2016. With almost 2,000 foreign children arriving on the Mediterranean in the first two months of 2017, the upward trend is expected to continue across 2017 making this law timely and relevant, although posing a significant challenge to local authorities to implement it fully.

The *Zampa law*, has other elements than simply age-assessment procedures. It is the first comprehensive act for unaccompanied children in Italy, and has been hailed by a number of Human Rights lawyers as a road map for excellence for the rest of Europe. It calls for a series of measures to protect refugee and migrant children, including:

- Unaccompanied and separated foreign children will not be subjected to “refoulement” or returns that may cause them harm;
- Reduces the time these children spend in first-line reception centres;
- Promote guardianship for children by using trained volunteers from the regional child and youth agency and promote foster care and host families for children;
- Harmonises and improve procedures for age-assessment in a child-sensitive manner;
- Establishes a structured and streamlined national reception system, with minimum standards in all reception facilities;
- Rolls out extensive use of qualified cultural mediators* to communicate and interpret needs of vulnerable adolescents;

The new law includes additional budgetary provisions on top of €600 million which the Government of Italy allocated to municipalities, groups and caregivers to help them cope with the large influx of refugees and migrants in reception centres. Continued attention is needed for preventing and responding to human trafficking and other forms of sexual and gender-based violence. Stronger protection safeguards are needed in the hotspots to provide appropriate gender-specific and child sensitive assistance and protection. According to practitioners this includes talking to the Red Cross, IOM and UNICEF:

- Improving the identification and vulnerability screening procedures to ensure timely support and referral of victims with a focus on women and children;

- Continuing guidance and training offered to frontline staff, including police officers and border guards on identifying potential victims and how best to handle traumatised people;
- Co-operating with support groups who can offer specific assistance such as identifying, counselling or supporting victims;
- Providing specific safeguards for unaccompanied children by placing them in specialised facilities. Providing adequate care for their specific needs, and enacting a coherent guardianship system centred around the need to safeguard the best interests of unaccompanied children;
- Ensuring gender-sensitive shelter allocation, mixed female-male police patrolling of the hotspots at night, and access to secure and well-lit sanitary facilities to prevent further victimisation.³⁰⁶

5. CAUSES OF CHILD TRAFFICKING

5.1 Are there groups of children who are more frequently reported to be affected by trafficking into Italy? (nationality – ethnicity – other?)

As responded to above the Nationalities are shifting with the change in the migratory and smuggling routes occurring in Sub Saharan and the horn of Africa – unaccompanied children are the largest percentage of children coming into the country, just short of 30,000 in 2017 – and the populations are outlined above. It is clear that Nigerian females are clearly seen as at risk of sex trafficking – more research is required to understand the trafficking destiny of other-at-risk clusters of children coming into the country.

5.2 If YES, List the groups

The last four years has seen some transformation of those at risk with the up-surge in unaccompanied children arriving from across the Sub Sahara. These are in need of protection and often are unwilling to return to their homeland on reaching the age of majority. The last fifteen years has seen Moldavia, Romania, Poland, Yugoslavia, Albania, Nigeria and Hungary represented in the at-risk groups. Substantial numbers of Bangladeshi and Eritrean youngsters arrive by boat. But this composition will undoubtedly change as more pro-active counter trafficking policing driven forward by NGO and IGO concerns gets underway.

³⁰⁶ European Union Agency for Fundamental Rights
<http://fra.europa.eu/en/news/2017/stronger-protection-migration-hotspots-guard-against-human-trafficking> Accessed November 20th 2017

5.3 Can you name any PULL FACTORS that are reported to be furthering child trafficking to the country?

One of the pull factors is that the route into Italy is open, despite having to be accessed by highly hazardous sea journeys across the Mediterranean. On such a journey, up to 4,000 die annually, many of them children. There is a back-up of children accruing into Italy due to the implementation of the *Dublin convention* whereby children who move further north into the European Union find are deported back to Italy as the country of first landing and declaration of Asylum.

On 30 April 2017, almost 16,000 unaccompanied children were registered present in Italy, while at the same time more than 5,000 were reported missing. A significant number of missing children leave the unsecured reception facilities to which they are allocated. They attempt to reach other European countries in order to join family members, or seek better integration opportunities, or are absorbed in trafficking networks. Increasingly asylum seekers and migrants, including unaccompanied children, are stopped at the French, Swiss, and Austrian borders and sent back to Italy. In one month during the Summer of 2016, the Swiss authorities returned to Italy more than 600 unaccompanied minors. Very few unaccompanied children have successfully been transferred legally from Italy to other EU States under the new Dublin III Regulation and the relocation scheme (with only one unaccompanied minor relocated as of April 2017).

Italy's geography and place in the current political matrix of the southernmost European States, is currently the main gateway to other western European nations. The country is the main point of arrival and 'distribution centre' for trafficked and smuggled persons deployed freely by traffickers from Africa and Eastern Europe. Another pull factor is that traffickers based within Europe recruit persons under the guise of 'legitimate' employment opportunities in Europe. Undoubtedly there is a demand for cheap unskilled and semi-skilled labour across Europe. There is also demand for sexual services – what the journalist, Julie Bindel calls in her latest research '*the pimping of prostitution*' now thoroughly explicit across Europe with the main supply coming from non-EU countries, or from those with constrained economic opportunities, hence making it a case of supply meeting demand.³⁰⁷

Meanwhile, UNODC noted that the flow of trafficked persons is a Southerly current as the majority of internationally-moved victims moving north from the 'global south' namely, East and South Asia and Sub-Saharan Africa. Statistics show a correlation between the affluence (GDP) of the destination country and the number of victims trafficked from other regions. Wealthier countries 'pull' trafficked persons

³⁰⁷ {Bindel, 2017 #316}

nationally, regionally and intercontinentally, whereas less affluent countries are mainly affected by domestic or sub regional trafficking flows.³⁰⁸

5.5 Can you name any PUSH FACTORS that are reported to be furthering child trafficking to Italy?

According to the world Bank, there is a special link between Nigeria and Italy because significant Italian investment flows into the construction industry in Nigeria. This is often tied into the money laundering from the trafficking 'business' into Italy. These factors have secured a strong relationship between Nigeria and Italy, making for a steady number in child trafficking of males and females from Nigeria. Estimates for the value of the 'trade' in Italy for sexual exploitation range from upwards of 20 billion Euro. However more work needs to be undertaken to ascertain this market value. It is clear nevertheless that a search for a better life is driving many to leave their homelands seeking opportunities in the Northern Economies. A significant push factor is escaping scourge of civil and inter-regional war., . Eritrean male and female youth, significantly more males, are now departing in numbers from their motherland because of enforced conscription and once established seems set to continue.³⁰⁹ The smuggling trails into which sub-Sahara and Horn of Africa flows forced migration appear to have a convection effect, whereby a trade is established which is beneficial to a cluster of enterprises. These flourish in the movement of thousands of people through many of the devastated towns along the North route.

Major trafficking push-factors identified generically apply here: poverty/ low literacy levels, high school-dropout rates, unemployment, lack of perspectives, civil war and the displacement of terror campaigns on civil populations, discrimination on grounds of gender, ethnic origin, class or religion.

Undertaking the migratory route North to Italy requires courage and physical resilience. Migrants run towards perceived improvement and safety, but the routes to that safety are now becoming increasingly difficult to access legitimately and safely. Hence the push into co-operating with smugglers, despite State-led attempts to close down the inter-state smuggling operations running out through Morocco, Niger, Mali, and Libya.³¹⁰

Another factor is that overburdened parents with the care of children on diminished resources or access to land either in rural or suburban areas living at subsistence level are prone to offers from traffickers for 'a better life for their children.' Seeking the best for their children often entices them to take money or give their children to

³⁰⁸ UNODC Trafficking in Persons Report 2016

³⁰⁹ {Kingsley, 2016 #315}

³¹⁰ Ibid Chapter 2

city residents. Often times those taking their children are ‘relatives’ or recruiters who make promises of an education or job opportunities either in their own country, or abroad.

The steady demand for commercialised sex in destination countries such as Italy, Spain, the Netherlands, Germany, the UK and certain parts of Scandinavia contributes strongly to the growth of the movement of young west African and Edo State (Nigerian) women into Italy. The net worth of this ‘trade in sex’ is ‘guestimated’ in multiple billions world-wide and hundreds of Euro millions in Italy alone. Though technically a ‘pull factor,’ the criminal networks benefitting from the trade are frequently embedded in countries of origin. All of which sustains practices of corruption and bribery. Another pull factor surrounds the myths of security and life style which will be ‘enjoyed’ by those recruited. International political decisions convened around one cluster of issues, for instance access to oil, or removal of antipathetic political leaders in transit states – as for instance in Libya, or the struggle for power in Syria, then sets up the terms for a massive shift in deployment of the Mediterranean for accessing Europe in significant numbers. through Italy.

Pull and push factors work together and must be seen as a part of the wider perverse and malign ‘business model’ which keeps the flow of trafficked persons on the move internationally. It also keeps the coffers of the networks facilitating the movement well supplied and exploiting ‘the person goods’ at the end of their journey. Thus deploying the finances that are realised through criminality, deceit, degradation, and indebtedness.

6. ASSISTANCE – LEGAL AND PROFESSIONAL

6.1 Has the Council of Europe action on Trafficking been ratified in the country

Yes

Is there a REFERRAL MECHANISM in the country?

Not yet. It is anticipated that a National Referral Mechanism will be set up through the National Action Plan. Guidelines will be developed with minimum standards for the identification, reception, assistance of victims and with the definition of shared operating procedures. In this context, multi-agency memoranda to understand and address human trafficking cases are being prepared for signature. Initiatives to promote the regular and systematic training of professionals working in this field will be undertaken (police officers, border police, immigration service officials, public prosecutors, lawyers, the judiciary and the judicial staff). All these areas are highlighted in the 2017 TIP report which advocated civil society engagement in awareness-raising and training (of the relevant bodies), in social protection and

enforcement. Without the Referral Mechanism, keeping clear accounts of numbers of victims self-referring through NGOs, those detected at ports of entry and those bringing criminal cases against traffickers, the task of reliable data management to offer robust victim protection, becomes well-nigh impossible.

6.2 Are there LEGAL PROVISIONS to appoint a LEGAL GUARDIAN when a child victim of trafficking is identified in the country?

Yes. The Italian legal system provides for a legal guardian to be appointed for every unaccompanied foreign child under 18 years of age. Technically this happens whenever an unaccompanied child is identified as a victim of trafficking. More training is taking place to up-skill NGOs for the task due to the large number (thousands) of unaccompanied children in the Italian social protection system. A procedure has been set out to assess the age of the unaccompanied child. If that procedure fails to assess his/her accurate age, the child is presumed to be a minor. *(see the Zampa Act 2017, for more information on procedures now technically in place).*

6.4 If YES, is the Legal Guardian appointed immediately?

The appointment has to take place within 48 hours.

6.5 WHO is responsible for appointing the Legal Guardian?

The Judge for guardianship has to appoint a legal guardian within 48 hours following the communication by the Questura. The law foresees no exception to this rule.

The Procedure Decree states that, when an asylum request is made by an unaccompanied child, the competent authority suspends the asylum procedure and immediately informs both the Juvenile Court ("*Tribunale per i minorenni*") and the Judge for guardianship (*Giudice tutelare*).

6.6 WHAT are the responsibilities of the Legal Guardian? (e.g. to accompany the child on all occasions? / identifying the needs of the child? / ensuring that the best interests of the child are met and implemented?)

According to the Procedure Decree, the legal guardian has the responsibility to assist the unaccompanied child during the entire asylum procedure. In case the child receives a negative decision on the claim, assistance continues. The legal guardian accompanies the child to the police for fingerprinting (for over 14s), and assists the child in filling the form-filling to formalise the asylum claim. The legal guardian also has to be present during the personal interview of the child before the determining authorities. He/she must be authorised by the Judge for guardianship to make an appeal against a negative decision.

6.7 WHAT other provisions are provided for the child? (e.g. social, educational, psychological, emotional, procedural, safe accommodation?) List all

Article 18 *'allows the holder to benefit from social services, educational provision and labour exchange lists in order to find a permanent job,'* offered by the assistance and social integration programmes provided by the same Article.

Mediators for 'culture' (staff from the same country as the victim) respond to the widespread distrust on the part of victims who on first interview are reluctant to reveal information because of trauma, fear or confusion. Cultural mediators appointed for survivors, seek to develop relationships of trust with the victims. They can accompany them for a long time along their journey of disclosure of abuse, and subsequent recovery.

The different cultural backgrounds of minors at risk of trafficking has necessitated different approaches and systems of communication and support for each individual ethnic group. This includes Eastern Europe - Moldova, Romania, Poland, Hungary. It also includes African countries such as Gambia, Nigeria and Eritrea, and countries of Southern Asia and the Middle East. Each requires a different approach, a number of translators, psychological support and mainstream educational provision.

6.8 Are there LEGAL PROVISIONS to ensure that the child receives the treatment best suited to its needs? List all

Yes. The list includes:

Article 1 1989 Convention on the Rights of the Child states its founding principle as putting into consideration what is in the best interest of the child.

Act of Law 451/97 provides for the Centre for Research and Survey on Childhood and Adolescence. This centre was influential in making child rights renowned in Italy. It is also a prominent source for data gathering and information analysis.

Act of Law 285/97 gives room for many associations to implement projects that promote child rights

Law no. 149 of 28 March 2001, regulates the foster care and adoption of children when the child is either temporarily or permanently deprived of his/her family environment.

The legislation addresses other provision and protection:

- foster care, in case of temporary unsuitability of the original family;

- placement in a family-like sheltered community or, if this is not available, in a public or private welfare institution;
- adoption as the last resort, when the child is totally deprived of the moral and material support of his or her parents or relatives. Also, when administrators, judges or social workers are confident that it is the right choice and will produce positive results for the child.

6.9 Are there OTHER PROVISIONS to ensure that the child receives the treatment best suited to its needs and circumstances? List all

Yes. These are outlined in the *Zampa Law 2017* - which is seeking to raise the bar on provision and protection for unaccompanied children in Italy from across the EU. The success of this Law as it is implemented across Italy will model to the rest of Europe some of the significant personalisation of protection which is also latent in its provisions.

6.10 Are there LEGAL PROVISIONS to guarantee that child victims of trafficking are being cared for adequately by Trained Professionals?

Yes. Legal guardians are given specialised training to represent unaccompanied foreign children (not only trafficked children) This training is provided at a regional level. Similarly, social service providers as well as legal guardians are trained in specific care and protection. This is a large-scale 'upskilling' and diversification of social protection and care provision. Unavoidably, there are some gaps in delivery. At the conference of the *Centro Astalli*, one of the constant calls was for more joined-up assistance, standardisation of procedures, financial assistance to keep pace with the costs for delivering training. As one delegate working within the NGO sector said, *'In Italy we have the most beautiful laws, the trick is though whether we can deliver on them, and there is the gap'*.³¹¹

There are also educators and children's care facility staff to observe, dialogue and establish a relationship of trust that allows children to feel safe.

Social workers of each municipality where children have been 'absorbed' into appropriate accommodation or foster homes, are tasked with evaluating if the child is at risk of labour and/or sexual exploitation, and consequently if the child could be

³¹¹ Notes taken at the Centro Astalli conference October 2017 - "MINORI STRANIERI NON ACCOMPAGNATI: vulnerabilità e potenzialità - esperienze a confronto" (FOREIGN MINORS NOT ACCOMPANIED: Vulnerability and Potential - Comparative Experiences) – Dr Carrie Pemberton Ford

a victim of trafficking (Law 184/1983, Article. 10; Consolidation Law on Immigration, Article. 18)

The cultural mediator is among the first person to meet the child. If the role is properly resourced it should be carry the necessary linguistic and cultural understanding that allows them to feel heard and understood, playing an important supporting role for educators, community workers and social workers. However, the vast range of languages can make this process challenging and is one of the areas requiring appropriate funding. It is an area where the EU needs to support the Italian efforts with reception and onward integration. One significant challenge is that most sub-Saharan and West African unaccompanied children come with no Italian, but with a level of English or French in which they are happy to speak.

A psychologist is tasked with evaluating the child's cognitive level and determines whether further study and evaluation is required on the health of the child and family history of past migration. There are also Health care providers. In recent interviews undertaken by those working in mental health provision, it has become clear that the health systems are having immense difficulty and in some areas are simply not coping to respond adequately to the overall request for mental health due to the volume of 'clients' being referred for complex trauma and post-traumatic stress disorder related treatment and therapy.³¹² Since new funding was secured in the wake of the *Zampa law*, some of the stress has been alleviated. Yet reports of the closure of public clinics set aside for migrant mental welfare assistance continue. Chief medical officers petition central government and the European Commission for assistance in making available the mental and public health response which is required for children and vulnerable adults. Assistance that is necessary for the majority of victims of torture, or physical abuse undergone during their migratory journey.³¹³

Law enforcement and judicial authorities come into contact with the child victims as a result of investigative activities and the staff of associations and international organisations engaged in outreach and/or legal assistance often at borders.

³¹² Conversations by the author Dr Carrie Pemberton Ford with mental health specialists working with minors gathered at the University of Palermo 2017 University of Brescia conference 'Public Health and Migration' September 2017

³¹³ Notes from meetings and interview with NGO and Public Health representatives in Palermo – University of Brescia – Public Health and Migration September 2017 and Migration and Unaccompanied Children day conference Centro Astalli Palermo October 2017 - Dr Carrie Pemberton Ford

6:11 Is there clear and adequate provision of trained interpreters available for the Child at all points of interaction with the State?

There is little data available to answer this question definitively. There are clear requirements to provide translation at all points but the research is not in place to review this provision. 'Cultural mediators' - persons of similar ethnicity or who have an understanding of the culture - are also part of the required support which should be available for unaccompanied children.

6:12 Is information available to children at point of entry in the languages of the key identified groups on the risks of being trafficked as an unaccompanied or accompanied minor? (question posed to Immigration / border Police / Stakeholding NGOs)

Yes, in the legislation required. However the volume, mix and distribution of unaccompanied minors across Italy means there will be breaches in this provision. NGO and EU Commission responses in finance and qualified personnel will be important to see the provision is stepped up and appropriately resourced. At the *Centro Astalli* conference on unaccompanied minors in October 2017, there was a great deal of concern around this area of protection, early identification and information sharing.³¹⁴

6.11 Are there OTHER PROVISIONS to guarantee that child victims of trafficking are being cared for by adequately trained professionals? (e.g. social, educational, procedural, safe accommodation?)

The law provides that the Department of Equal Opportunities delivers financial resources for social protection interventions. It is responsible for making funds available and distributed to care for the needs of the victims. The Committee for Foreign Minors supervises the child's stay in Italy; collaborates with the competent public offices; establishes the unaccompanied child's foreign status; acts in order to find out the parents; takes measures to repatriate them; takes a census of unaccompanied foreign children in Italy.

However there is more work to be done. From our own experience of visiting some of the shelters and centres provided for unaccompanied children – particularly those in their final years of childhood - there is much to be desired. Currently the method of dispersal is the responsibility of municipalities. Various NGOs are able to establish small centres to accommodate and work with unaccompanied minors. At one level this is a strong dispersal and integration response. However, as noted at

³¹⁴ Presentations at the Centro Astalli Migration and Unaccompanied Children Day Conference October 2017

Conferences and in conversation with those tasked to start reviewing facilities undertaken over the Autumn of 2017, there is a great deal of concern as to how well and safely the system is working. Some of the concerns are around delayed payments for staff, over-reliance on *ad hoc* charitable appeals, the 'overheads' for buildings not specifically dedicated to the provision of immediate services to unaccompanied minors and migrants who have fallen foul of the asylum recognition system.

This area requires some robust independent research to explore how well this next stage is working in relation to geographically and politically distributed provision under the management of local municipalities. Numerous small NGOs, alongside IGOs and faith-based programmes are working alongside local providers to ensure the legal, health, welfare, educational and clothing requirements of the programmes works as effectively for support for minors, particularly in the initial years of the steep climb in the number of unaccompanied migrant children. Some services work well, others are viewed with misgiving by centre providers who wonder about their 'kite marking' and monitoring. Others discuss the challenges of funding unavailable to time delaying the payment of salaries to core staff members.

The intention of the Italian polity is to undertake provision to a high standard of protection. At the conference in Palermo, it was stated, *'we in Italy know how to make fine laws! It is in their successful delivery where we find some difficulty!'*³¹⁵

6.12 Are there PROFESSIONALS TRAINED to be aware of a) the special needs of the child? b) the RIGHTS of the child? c) gender / ethnic issues?

Yes, legal guardians, social and health service providers are trained. The issue for the service provision is the ability to provide sufficient trained personnel to meet the continued number and ethnicity of arrivals.

6.13 Have measures been taken to ensure appropriate assistance for the Family of a child victim of trafficking? (e.g. the right to receive information about possibilities of support, protection, legal advice, legal aid, outcome of action taken on behalf of the child?)

Further research is required to answer this adequately. Currently the prime focus of attention is given to the significant number of unaccompanied children within the Italian asylum system and unaccompanied child-protection processes.

6:14 Where are the pinch points being experienced in all of these processes.

³¹⁵ University of Palermo Conference June 2017, Centro Astalli delegate during Palermo Conference on Migration September 2017.

Funding is one pinch point. The 'placement' of children into new municipality-based co-operatives, NGOs and faith-based centres for unaccompanied minors has moved forward apace. The finance to support the range of personnel on the teams who need to be present for compliant delivery is delayed, thus threatening the integrity of the service, and putting all parties at risk. It is not clear how compliance is being assessed or how emergency funding is made available to deal with shortfalls as they occur. This may be a challenge between the flow of resources from Brussels to Rome, Rome to Palermo and from Palermo through to the municipality. This will only be revealed when a clear review of the processes is undertaken. This challenge injects much uncertainty, underperformance and risk in the delivery system.

The level of unaccompanied migrant children to Italy has some seasonality to it. It is very much an 'unknown' quotient apart from the fact that it has climbed consistently year on year over the last five years. The nationality and the gender distribution is not as well documented or available to the public as it could be. Were it so, it would assist with the forward planning of resources to deliver the high quality of response which is now set forth in the *Zampa Law*.

The major trauma at sea, or coming through the 'second sea' of the Sahara, will have long term impact on arrivals. They will witness traumatic desperation, loss of life, sometimes rape, beatings or significant forms of 'extraction' torture. All of these experiences require extra capacity within the system so as to cope adequately when they are required.

The present mode 'struggling to deliver European-level compliance' is combined with a polity divided about the presence of the numbers of unaccompanied children requiring assistance. This is a matter which will require careful consideration so as to reassure the host population that the integration strategy currently deployed, over the previous 'expulsion' strategy (under Muammar Gaddafi and former Prime Minister Silvia Berlusconi) is best.

It is unknown whether organised crime has infiltrated these processes. With a significant history of Mafia activity in substantial public sector activities and where organised crime is playing such a significant role in facilitating the movements of migrants through North Africa from Libya and other North African beaches, the question needs to be asked. Robust accountability and transparency to account for the vast monetary flow from Brussels to Rome and into Palermo is required in order to generate the protection of unaccompanied minors which the State intends.

Pinch points are clearly felt during the first days of the reception of 'fresh migrants' as there is an enormous amount of intensive work to be undertaken. Alongside this is the steady disappearance of at least 5% of unaccompanied minors. This occurs

because there is no way of securing minors from seeking to pursue their onward route either to family located elsewhere in Europe or to make contact with their traffickers to continue a process of exploitation. This fact needs to be addressed to reduce the impact of human trafficking.

7. PROVISION – PROTECTION OF THE CHILD

7.1 Are there LEGAL PROVISIONS in the country that automatically grant TEMPORARY ‘right to remain’ if the child is a foreign national?

Yes. Generally, the Italian legal system does not allow the deportation of foreign children below the age of 18, unless he/she constitutes a danger for public safety or State security, in which case he/she may be deported for this special reason. Please see the robust provisions of the *Zampa Law* 2017.

Article 18 of the Consolidated Act of Law 286, 1998 allows for a special residence permit for reasons of social protection. This is implemented whenever violent or severe exploitation situations are acknowledged or serious dangers for his/her safety are real, due to attempts at abandoning criminal association environments that have exploited the child or because important information to the Italian judicial authorities has been disclosed in the course of investigations. Moreover the *Zampa Law* of summer 2017, contains the following provisions:

- Unaccompanied and separated foreign children will not be subjected to “refoulement” or returns that may cause them harm;
- Reduces the time these children spend in first-line reception centres;
- Promotes guardianship for children by using trained volunteers from the regional child and youth agency and promote foster care and host families for children;
- Harmonises and improve procedures for age assessment in a child-sensitive manner;
- Establishes a structured and streamlined national reception system, with minimum standards in all reception facilities;
- Rolls out extensive use of qualified cultural mediators* to communicate and interpret needs of vulnerable adolescents;

The new law includes additional budgetary provisions in addition to €600 million which the Government of Italy allocated to municipalities, groups and caregivers in 2016 to help them cope with the large numbers of refugees and migrants in reception centres.

7:2 What form does this take?

A temporary residence permit understood by practitioners to protect the unaccompanied child until at least the age of majority. This brings some safeguards

so that in the final years of tertiary education a child can find protection in Italy (up to the end of their first degree).

7.2 If YES, is the child entitled to stay in the country on a valid legal basis? (is there a time limit?)

The permit expires after six months. It can be renewed for one year, or for the time required by judicial authorities. The law does not specify how often a permit can be renewed, and so it can be renewed until the child has reached the age of 18.

This permit can be revoked on the grounds of conduct. However the *Zampa law* is widely cited as the default position laying down the terms of uninterrupted residency during years of minority applied for unaccompanied children.

7.3 What happens when the child turns 18 YEARS of age?

Article 18 of the 1998 Italian Law on Immigration provides that children on programmes benefitting from temporary residence have the right to obtain a permanent residence permit when they reach the age of the majority.

The Memorandum of the ministry of internal affairs differs in that those who have reached the age of 18 will be deprived of their residence permit and become liable for expulsion. GRETA assessment and report of 2016 expressed clear concerns about this area of the law.³¹⁶ The *ZAMPA law* brings a measure of protection to the child reaching majority if he/she is undertaking full time study in Tertiary education. This is an area being reviewed and will be tested both politically and legally in the coming year.

7.4 Is the CONDITION OF STAY in the country linked in any way to a child's willingness to testify in criminal proceedings?

Yes. In Italy the co-operation of a child to testify is fundamental to be given benefits under the law such as the permit to stay in the country.

What is the provision of protection for the child if unaccompanied, in terms of shelter, Health care, Education:

Unaccompanied minors are placed under the care and protection of social services temporarily, the general supervision of the Committee for Foreign Minors and are granted healthcare and educational/social services according to Articles 5-7 of Prime Minister Decree no.535/1999.

³¹⁶ Greta Report on Italy 2016

Please see above for the provisions under the *ZAMPA law*, for the most recent range of provisions, including legal guardianship, psychological support, full educational integration and cultural translators.

7.5 Are RESIDENT PERMITS durable until a ‘sustainable solution’ for the child has been found?

The *Zampa Law* has assumed the default position of the Italian State. That means permit for residence is presumed as an ongoing entitlement until the age of majority unless it is shown that the place of return is safe and not liable to the charge of state refoulement. In 2018 due to the political swing to the ‘right’ in Sicily (where the majority of unaccompanied children are found) and the increase of the anti-immigration sentiment in Italy, the *Zampa Law* will undoubtedly come under intense political scrutiny. Those who want to see its provisions continue will need to be supporting it across the legislative arena.

The *Zampa Law* was passed in the Italian parliament after intense and effective lobbying by UNICEF, IOM and *Save the Children* over a period of two years deploying the UNICEF report “*Child Alert: A Deadly Journey for Children*” which noted the prevalence of sexual violence, exploitation, abuse and detention which refugee and migrant children and women suffer routinely at the hands of smugglers on the Central Mediterranean migration route to Italy.³¹⁷ The report was widely cited during the discussions in the Italian Parliament around the passing of the *Zampa Law*.

Without doubt smuggling experiences, the consequences of being trafficked, rape or to sexual exploitation leaves severe and long lasting scars. Research shows victims have an increased risk of committing suicide and endure long-term effects on their mental health. Other abuses endured such as physical injuries, HIV & STI exposure, unwanted pregnancy, terminations, substance use and dependency add to long-term ill-effects.

Return of minors from the EU to North Africa, or to other countries in Africa is strongly resisted by IGOs, NGOs and the European Court of Human Rights. Added to this resistance is brought to play by the Best Interests of the Child Global compact. De Facto the vast majority of the children arriving in Italy are now staying until the age of majority regardless of technical processes.

³¹⁷ {UNICEF, 2017 #277}

Victims of trafficking are requested to testify against their ‘abductors’ at present. This may now be changed with the *Zampa* legislation in place. It will require further observation.

Is there a time limit to the Residence Permit?

Historically, Article 28 DPR 394/99 provided a six month period for the permit issued to under age persons. Memoranda of 13.11.2000 and 9.4.2001 of the Ministry of Internal Affairs established that this permit did not entitle the child to work and could not be extended upon reaching the age of 18. As a consequence, children no longer had the opportunity to be included in integration programmes that would allow them to enrol in professional training courses for possible future employment. Those who reached the age of 18 were deprived of their residence permits and became liable for expulsion.

With the recent *Zampa* legislation coming into play in 2017, child victims automatically receive a residence permit until the age of 18 and are accommodated either in children’s centres, fostered or placed in open centers established for trafficking victims who are also asylum-seekers. Review of the facilities is now being undertaken by a number of IGOs concerned to see the level of protection reflecting adequately the intentions of the *Zampa Legislation* and the Best Interests of the Child.

7.6 What is the process of identifying those who are on the transition of Puberty /Adulthood – over 18.

Is this perceived to be a significant problem by the authorities – or NGOs Please elaborate.

This is a significant problem. The new *Zampa law* provides the discretion wherever there is doubt over the division between minority and majority. It privileges a reading of minority in order to safeguard unaccompanied minors’ rights in Italy’s immigration reception system.

7.6 How do the other LEGAL PROVISIONS of permanent or temporary permits for residence in the country work?

Can Asylum claims be made at the same time as sorting out Safeguarding or a claim on Trafficking?

There are some difficulties associated with managing trafficking claims whilst also addressing asylum procedures.

What are the protections available for someone putting forward an Asylum Claim?

Legislative Decree Article 5(2) 140/2005 provides for asylum-seekers who lack financial resources to ensure an adequate standard of living for themselves and family members. While, Article 6(1) provides that an asylum-seeker can present a reception request when lodging an asylum claim. Access to reception centres must be provided at the moment of the presentation of the asylum request. Sequel to this Article 4(4) 142/2015 provides that reception measures apply to asylum applicants who make an application for international protection.

Italy is seeking to make available financial benefits, accommodation, rapid access to work permits and international protection to all those lodging asylum claims. The majority of those putting forward claims particularly from Nigeria and West Africa are being rejected. Adults are relocated back to source countries where the necessary paperwork is in place. This is so in cases where refoulement is not seen to be an issue by the authorities. This is a practice which is under intense scrutiny by Human Rights agencies and many of those who are scheduled to be returned disappear into the 'grey' or 'black' economy across Europe.

When an unaccompanied minor requests asylum, during the consideration of the request such a person can benefit from the services provided through local entities. Such options include children being placed in the care of an adult family resident in Italy. In the absence of this option the judicial authorities may adopt other measures aimed at protecting children. These are being upgraded each year under intense pressure for protection now being placed on Italy towards its reception of thousands of unaccompanied children. Significant finance in support of this process is coming from Brussels, Rome and the UNHCR. It will be an area of ongoing political review particularly as Italy enters an election year and when migration is a significant element of the 'political' *to do lists* voiced by the electorate.

8. PERMANENT / TEMPORARY RESIDENCY – DATA.

8.1 Is there data for children who have RECEIVED temporary or permanent permits for residency in the country? If YES, fill in the chart:

This information is currently unavailable to the researcher.

Year	Nos	Male	Female	Temporary	Permanent
2010					
2011					

2012					
2013					
2014					

8.2 Are there LEGAL PROVISIONS for THIRD COUNTRY SETTLEMENT of a child victim? (in cases where the safe return of a child to his/her own country of origin and the integration in the country of destination are not possible, or where these solutions not be in the best interests of the child)

Yes. The most recent legislative decree 142/2015 sets out the reception standards for third-country nationals making an application for international protection on the territory, including at the borders, transit zones or in the territorial waters of Italy. In practice Italy is currently holding most of the children recovered from its territorial waters as part of the Central Mediterranean crossing. Very little third country resettlement is taking place with the closure of borders. This is something the Italian Government would like to see the EU take a forward to shoulder some of the care and protection burden and not simply with financial assistance only through Brussels.

9. REPATRIATION - DATA

9.1 How many child victims of trafficking have been repatriated to their country of origin? Fill in the chart as appropriate:

Currently this data is unavailable to the researcher.

Year	Nos	Male	Female	Nationality	Country
2010					
2011					

2012					
2013					
2014					

The 2016 GRETA draws attention to accounts of failed asylum claim migrants being returned to West African countries against their will. Specific information is hard to come by. We are currently seeking further information from the IOM in Italy since voluntary repatriation occurs through IOM.

9:2 Is there further comment from NGOs about what is occurring with regard to protection and repatriations. If so who are the lead organisations in voicing this concern.

The International Organisation for Migration (IOM), Doctors without Borders, Lawyers without Borders, the *Red Cross*, *Save the Children*, *Centro Astalli*, and a number of faith bodies working in co-operation with these agencies are starting to bring their concerns together under a joint umbrella. In 2017 there were three national meetings for NGOs convened through partnership with the University of Palermo and IGO support in order to raise awareness and bring feedback to analyse the new legislation as it is working currently in Italy.

9.3 Are there LEGAL PROVISIONS to guarantee that a RISK ASSESSMENT is made prior to repatriation in order to establish whether or not this is safe?

These are unknown, but with the *ZAMPA* legislation putting children back into any situations of 'harm' or *refoulement* is not countenanced, thanks to the recent *Zampa Law* 2017.

9.4 Are there OTHER PROVISIONS (social, procedural, educational, psychological, safety) to guarantee that a RISK ASSESSMENT is made prior to repatriation in order to establish whether or not this is safe?

These are in place but it is not clear who is responsible for organising the provision.

9.5 If YES, WHO is responsible for the risk assessment in the country of destination?

Not known in the case of country of destination.

9.6 Are there LEGAL PROCEDURES in place to ensure repatriation is in the best interests of the child?

Yes. The Convention on the Rights of the Child Article 3 states that the best interest of the child should always be considered.

The Testo Unico (Consolidated Act) 286/98, Article 33, DPCM 535/99 provides for unaccompanied foreign children who came to Italy to be reported to the Committee for Foreign Minors. This Committee undertakes the investigations of the child in his/her country of origin and decides whether or not to repatriate the child. However most of these procedures are not being amended in the light of the new ZAMPA law

Zampa legislation no.47 of 7/4/2017 establishes that it is strictly forbidden to send back unaccompanied minors. This has significantly reduced the time for personal identification to a short duration of 3-4 days. Application of the laws are still highly localised and not yet applied across Italy with the resources required to deliver *Zampa's* requirements to optimised levels. In order to accelerate the process, the legislation permits a timeline of 30 days (at least) to identify the minors and decide their age (who are then welcomed through specific structures).

Article no.11 of the *Zampa legislation* has founded a register of volunteer tutors who can take charge of the children (visit them, drop them off to doctors, pick them up from school and spend time with them). Some NGOs like *Centro Astalli* play a leading role in the delivery of training of these tutors across Italy.

Article no.3 of the *Zampa legislation* states that no child (whether accompanied or unaccompanied) can be rejected or expelled and the Italian government has to provide a staying permission until the age of 18.

Assisted and voluntary repatriation is only foreseen for an unaccompanied child when in the words of the legislation:

"Reuniting with his/her family in the country of origin or in a third country correspond to his/her superior interest. "

The provision is adopted by the competent Court for the Juvenile, (there are two Courts in Italy – one for Adults and one for Juveniles) where the minor and his/her guardian are interviewed and the results are assessed

- of the investigations regarding family members in the country of origin and
- of the report of the competent social services about the situation of the minor in Italy.

Article no. 10 of the *Zampa legislation* states that If the child has a specific condition (inasmuch as s/he is still studying or his/her parents are working or in case his/her

only sibling is still studying, or if the minor has an only parent in a condition of economic independence), his/her residence permit can be raised until the age of 21 (and in this case he/she should be entrusted to either a settled foreign national, or to an Italian citizen if possible.)

Refugee centres try to do their best for a child's well-being. However, sometimes, they also may decide to move the child to other centres across Italy, especially on reaching 18 years, when different funding arrangements for support apply. These are distributed between payments from Brussels, from Rome and from the Regional authorities. This funding complexity requires further research so as to understand how the care of migrant children is managed and can be rendered economically and politically sustainable. with temporary to longer term settlement in Italy. Further information on this recent piece of legislation can be found in a helpful Italian article which is under-translation. It still being absorbed into regional and City best practice guidelines.³¹⁸

9.7a Are there OTHER PROCEDURES (social, procedural, educational, psychological, safety) in place to ensure that repatriation is in the best interests of the child?

Repatriation is not being looked at as a serious option for most of those arriving through the Mediterranean route. It is deployed for some arriving from Albania, Romania and Moldova. The article noted above (Article no. 10 of the *Zampa legislation*) outlines some of the new provisions in place in the ZAMPA legislation which delays any attempts at repatriation until the age of 18. If educational studies are underway the delay is until 21. Please note the comment in the above section on the procedures laid down in the legislation if families wish to repatriate with their children, which involves the participation and review by the Juvenile Court.

9.7b What is the Criteria being used?

Criteria includes (i) taking into account the views of the child, or his/her family based on the evidence provided with the new compact for Children's Best Interests now gaining traction. The opinion of the child and the (ii) views of the Guardian are increasingly being sought and considered in the Juvenile Court.

(iii) There is the provision of a tutor in order to provide effective participation of the child.

³¹⁸ Legge ZAMPA: n.47 del 7/4/2017. Disposizioni in materia di misure di protezione dei minori stranieri non accompagnati.

(iv) An assessment is undertaken of the economic and social conditions to which the child will be returning, including provision of opportunities for study, training, work and support in the country of origin. (v) If there is the possibility of refoulment, or harm for the child on return, this will be refused automatically by the Italian authorities, under the provision of the *ZAMPA* law 2017.

In practice repatriation procedures for children in Italy are obsolete unless requested directly by the child or the family. Italy has orientated itself to a position of safer reception, protection and integration as its approach, at least until the child reaches 18 and for many if they are engaged in full time education until the age of 21.

9.8 Are there LEGAL PROVISIONS to ensure that repatriated children are received in the country of origin by an APPOINTED responsible member of the social services of the country of origin and/or the child's parents or legal guardian?

This is unknown. Usually this would be one of the provisions required for safe return. However this is something of an academic question, as repatriation is not applied since the *ZAMPA* law 2017 is in place.

10. VICTIM ASSISTANCE

10.1 What Institution or Organisation is responsible for RECEIVING children that are being repatriated from the country of destination to the country of origin?

Committee for Foreign Minors (Under the Ministry for internal affairs)

District Police Departments (Questure)

Department for Civil Liberty and Immigration

Ministry of Internal Affairs

The IOM – the International Organisation for Migration

10.2a Are there LEGAL PROVISIONS in the country of origin to ensure that (repatriated) child victims of trafficking receive long-term care and protection?

Yes. Presidential Decrees no. 237/2005 and 228/2003

10 2b What form does this take?

The *Zampa Legislation* is read as a general barrier to returns taking place during the years of minority unless with family members.

10.3 Are there OTHER PROVISIONS in the country of origin to ensure that (repatriated) child victims of trafficking receive long-term care and protection? (e.g. social integration? Safe accommodation? Security? Food? access to Education? Health Care? Psycho-social support? Legal assistance? Social services?) List all that are available.

This is dependent on the particular country of origin in question.

Accommodation and shelters may be provided but addresses and details are not available in order to protect the victims from the threat of onward recruitment or reprisals from criminal organisations.

NGOs and Embassies are tasked in the work of ongoing social re-integration. Some financial and practical assistance from a special fund is supposed to be provided for victims to find permanent work during this period. Without a National Referral Mechanism in place it is difficult to see how this is working in practice. It is also difficult to bring any clear data to the table to enhance evidence supported policy making.

Much of the previous legislation seeking to safeguard and secure some protected 'return' policies with minors is now becoming semi-redundant with the passing of the ZAMPA law in 2017.

There is provision for free legal aid by virtue of Article 74 and in line with Presidential Decree n. 115/2002. This provision is also granted to foreign nationals and stateless persons by Article 90 in connection with Article 74, paragraph 1, of the same Presidential Decree n. 115/2002. Numerous accounts gleaned from NGO front-line workers report charges being made by legal practitioners across Italy for their interactions with migrants seeking legal assistance in pursuing asylum claims.³¹⁹ The number of requests now coming through to Italy via the Mediterranean has grown year on year since 2012. This is an area of legislative, political and civil-society discussion for which the democracy to take a judgement. This election year of 2018 will be a significant one. It will have an impact on this particularly pressing area of political concern for those working in counter immigration and the 'inclusion' of fuller integration lobbies.

10.4 If YES, WHO is responsible for conducting the needs assessment?

At present we are not clear as to who takes the lead on the Needs Assessment as there are various bodies who undertake this task. The role of the Superintendent of the Juvenile Court for the region plays a vital role in legitimating the presence of an

³¹⁹ Conference notes Palermo September 2017 Dr Carrie Pemberton Ford

unaccompanied child in the region securing appropriate provision for the child's education and temporary citizenship.

10.5 Are there LEGAL PROVISIONS to ensure each child has a LEGAL GUARDIAN?

Yes.

10.6 Are there OTHER PROVISIONS on Guardianship in the country?

These have been noted above under 10.3.

10.7 Are there LEGAL PROVISIONS to ensure that the life situation of a child following his/her reunification or placement in alternative care is MONITORED?

The Consolidated Act (Testo Unico) 286/98, promotes family reunification for foreign minors, which is rightly considered as an important factor in the process of integration of the immigrant family into the receiving society.

Article 10 UN Convention of Child rights, regarding the entry visas into Italy have been granted for family reunification purposes. The children involved were mainly of Moroccan, Albanian, Chinese, Philippine and Tunisian nationality (Data quoted in the decree on migration flow programming).

In terms of any return policy in principle this is now redundant, since it is outlawed by the ZAMPA legislation of 2018. It is only able to be undertaken with caution with family groups wishing to repatriate to home countries.

10.8 WHO is responsible for the monitoring?

The Inter-Ministerial Commission for Support to Victims of Trafficking and Exploitation established under the Department of Rights and Equal Opportunities of the Prime Minister's Office as provided by Article 13 of Law 228/2003

11. GOVERNMENT POLICIES and ACTION PLAN for PREVENTION

11.1 Has the Government adopted a NATIONAL ACTION PLAN on Trafficking in Human beings?

Yes. In March 2008 the Comitato di Coordinamento delle azioni di Governo contro la tratta [Coordination Committee for Governmental Action against Trafficking], instituted in 2007 under the Dipartimento per i Diritti e le Pari Opportunità [Department of Rights and Equal Opportunities] of the Presidenza del Consiglio dei Ministri [Prime Minister's Office], published an in-depth report entitled *Verso la costruzione di un piano nazionale anti-tratta [Towards the establishment of a National Anti-trafficking Plan - yet to be realised]*.

11.2 Does the National Action Plan include Special Provision for Children?

The government has adopted several awareness-raising campaigns run by the Direzione Generale della Cooperazione italiana allo sviluppo [General Directorate for Italian Cooperation for Progress] of the Ministry of Foreign Affairs together with the Dipartimento per i Diritti e le Pari Opportunità [Department of Rights and Equal Opportunities] of the Presidenza del Consiglio dei Ministri [Prime Minister's Office], and by some of the most relevant Italian NGOs. The Italian public authorities works with NGOs to enact important policies in order to prevent children from becoming victims of trafficking.

11.3 Are there other NATIONAL ACTION PLANS in force that are relevant for the protection of Child Rights? (e.g. Action Plans on child labour / street children / commercial sexual exploitation? Other?)

Collaboration between the General Directorate of the Italian Cooperation for Progress, Ministry of Foreign Affairs, together with the Department of Rights and Equal Opportunities and with some of the most relevant Italian NGOs, such as *Terre des Hommes*, UNICEF, ECPAT seeks to end child prostitution pornography and trafficking. These bodies have not formed a National Action Plan. The US TIP report urges on Italy to step up its efforts in raising awareness of the crime of human trafficking and to see all front-line operatives trained appropriately in its warning signs, practical responses to safeguard victims when they are under the protective services.

The national coordination body on modern slavery (trafficking, slavery, forced labour, children in armed conflict) exists that includes both NGOs and government representatives with the Equal Opportunities department playing a central role in coordinating government policy in Italy.

The Italian government is involved in working with regional mechanisms such as the international collaboration on migration control FRONTEX, which has a clear mandate to combat human trafficking within migratory flows. It is involved in the Council of Europe, the European Commission, OSCE, and the Parliamentary Assembly for the Mediterranean. The question of migration is high on the political agenda, with recent shootings, and localised riots being a part of the back drop of heightened concerns around a right wing back lash.³²⁰

³²⁰ <https://www.politico.eu/article/macerata-italy-shooting-raises-stakes-in-immigration-debate/>

Italy has agreements with governments of origin/destination countries identified by partners and police and sees itself collaborating actively on modern slavery issues, building investigative co-operation and seeking methods of safe repatriation.³²¹

11.4 WHICH of the following NATIONAL BODIES are in the country? (tick relevant)

Anti-trafficking Coordinator Ombudsman for Child Rights V National Rapporteur?

National Working Group? Committee on Human / Child Trafficking? Inter-Ministerial Group on HT? Special Law Enforcement Unit / Task force

- Committee on Human / Child Trafficking

-Law Enforcement Unit

Just clarifying these with an Italian specialist in Italy.

- Inter-Ministerial Group on HT- There is an Inter-ministerial Commission for support to victims of trafficking and exploitation

11.5 Is there co-operation between Government agencies and NGOs and in what form does this manifest itself.

Yes. There are awareness-raising campaigns run by the Direzione Generale della Cooperazione italiana allo sviluppo [General Directorate for Italian Cooperation for Progress] the Ministry of Foreign Affairs together with the Dipartimento per i Diritti e le Pari Opportunità [Department of Rights and Equal Opportunities] the Presidenza del Consiglio dei Ministri [Prime Minister's Office], and the most relevant Italian NGOs. The Italian public authorities have worked with NGOs to elaborate several important policies to prevent children from becoming victims of trafficking.

Italian public authorities have worked with NGOs to design several important projects to prevent children from becoming victims of trafficking. As early as 2003 the Ministero dell'Interno [Ministry of Internal Affairs] with the collaboration of IOM (International Organization for Migration) and Italian Caritas launched the Progetto Prevenzione Tratta [Trafficking Prevention Project] which consists of running an information campaign in four countries - Albania, Moldova, Romania and Ukraine.

³²¹ Although the Greta Report of 2016 notes concerns about the transparency and safeguarding in the Reception and Removal processes observed by its auditors in 2015 – 2016.

The project aimed to foster collaboration with local authorities by creating local groups to monitor the phenomenon and help the information campaign. More recently the challenge for the authorities is to ensure that the rising number of unaccompanied children are received appropriately, 'processed' and placed in a protective environment with regard to their mental, physical, educational and social needs. The 2017 UN TIP report remarks on the failure of adequate spending by the Italian Government to raise public awareness of child exploitation and human trafficking in the country.

The Department of Rights and Equal Opportunities does make some funds available to NGOs involved in anti-trafficking work, but we have not seen the budget which has been made available over the last decade.

There are a range of co-operation agreements between the Inter-ministerial Commission for Support to Victims of Trafficking and Exploitation of the Prime Minister's Office, NGOs, municipalities and local government bodies.

11.6 Has it been Institutionalised and what are the various other bodies that bring together Stakeholders in this area, for you nationally?

Centro Astalli is one of the leading NGOs working to develop the reception and integration programme for unaccompanied minors across Italy. *Save the Children*, *Red Cross*, IOM and UNICEF have country-wide presence in Italy responding to the challenge.

11.7 What is the place of Faith-Based Organisations in these forums?

One of the greatest strengths of religious organisations is their ability to partner with others to strengthen efforts in combatting human trafficking. FBOs have the ability to reach into local communities and also to mobilise networks throughout the world. A broad network of cooperative partnerships have been formed with other social structures by faith-based networks such as *Caritas*, and the *Centro Astalli*. These partnerships are between religions, religious organisations and law enforcement. They cooperate as religious organisations with other members of civil society and governments.

11.8 What particular areas of concern / expertise are taken forward by these Faith-Based Organisations ?

Areas of concern include: repatriation, rebuilding victims lives, avoiding victimisation, forming partnerships with law enforcement agencies, social workers, politicians and international businesses. Relentless is the search for funds to develop innovative work and deliver on government promises for base-line

support.. Sister Eugenie Bonetti summarised the areas which Faith-Based Organisations (FBOs) can develop as ‘Four P’s’, as **Prevention, Protection, Prosecution, and Partnership**. The role of ethical leadership in response to the struggle against human trafficking is crucial in raising the challenge of respect for human dignity, and boundaries, infringed in every act of human trafficking, and which bring the activity of the ‘consumer’ firmly into the frame.

11.9 What contributions in the whole area of Prevention is being taken forward by FBOs

The eradication of poverty and economic disparity forms part of the vision and mission of faith-based networks in pursuit of social justice. This vision is finding a voice increasingly in counter trafficking work.

The Santa Marta Initiative.

Following initiatives by the Catholic Bishops’ Conference for England and Wales (CBCEW), the *Santa Marta Group* was developed by the CBCEW. It first met in Rome in April 2014. Police chiefs and Catholic bishops came together with Pope Francis, to sign an historic declaration, committing themselves to a partnership to eliminate human trafficking. Named after the home of Pope Francis, in which the members stayed, the Group now has members in over 30 countries.

Through a series of conferences, the Bishops’ Conference has brought together the heads of national and international police and law enforcement agencies including UK National Crime Agency, Interpol, Europol, US Homeland Security, the Argentine Federal Police, Ghanaian, Indian, Thai, Australian, Irish and many European Police Forces to look at how they can work with the Church to help victims.

Reinforcing Social Justice and Compassionate Communities

Faith-based groups are working on advocacy underpinned by the resolve that human trafficking can be prevented by embracing the view that all must “protect the dignity and centrality of each person.”

There is continuous involvement in the social sector including primary education, collegiate education, houses of worship, medicine, and social services. All are uniquely positioned to contribute to this social messaging and move society in the direction of condemning human trafficking and its causes.

The Waldensian churches in Italy have a dedicated Social Diaconate with one of its particular areas of engagement addressing human trafficking risk with migrants

The Roman Catholic women religious make a range of responses including offering safe 'open' houses of reception and education for unaccompanied children under the Government-funded programme.

There are numerous Religious Orders taking forward work in receiving, feeding and housing migrant children and adults across Italy.

At present there is no central register of those working to support migrants, and unaccompanied children. This is something NGO and FBO organisations are looking to establish so as to develop improved co-ordination and advocacy.

11.10 Are there some specific contributions into this area of engagement being made by the Catholic Church in your country?

The Catholic church has been proactive in anti- trafficking in almost all the nations across the world. the Church's involvement in pastoral duties enables it to promote the human dignity of persons. This is especially important for persons exploited through trafficking, particularly children. The Church advocates for the liberation of traffickers, for their economic, educational, and welfare. The Vatican has strategic set up partnerships with state governments such as the US and Italy among others to combat this 'vile' trade in human lives.

Advocacy

On October 28, 2005 Pope Benedict XVI issued a message that condemned trafficking and described it as a 'scourge' on the human body of the world community. He called attention to the women and girls (particularly migrants) exploited like slaves in the sex industry. *"Migration: a Sign of the Times,"*³²². Pope John Paul II, 29 June, 1995 condemned in his *"Letter of Pope John Paul II to Women,"* the act of human trafficking, where he brought to public notice the *"hedonistic and commercial culture which encourages the systematic exploitation of sexuality and corrupts even very young girls into letting their bodies be used for profit."*

An act which he later described as a shocking offense against human dignity, a grave violation of fundamental human rights. The Second Vatican Council pointed to selling of women and children among other vices as infamies that poison human society and a supreme dishonour to the Creator.

Pope Francis made it a mark of his papacy to combat human trafficking when he convened the first conference at the Vatican in October 2013, a few months after

³²², Pope Benedict XVI *"Migration: a Sign of the Times,"* October 28, 2005

his election as pope. He has issued many statements on what he calls the 'vile' trade in human persons.³²³

"Slaves no more, but brothers and sisters" was the theme chosen by Pope Francis for the 48th World Day of Peace, 1 January 2015 when he spoke out on ridding the world of slavery and human trafficking.

Pastoral care and Rehabilitation

Apart from these open condemnations the Catholic Church sponsored a conference in June 2005 entitled: "The First International Meeting of Pastoral Care for the Liberation of Women of the Street." At this conference an initiative was raised by the Pontifical Council for Migrants and Travellers to offer help and pastoral care to victims, especially those held in sexual slavery.

Establishment of Faith Based Organisations

Religious leaders in the Catholic Church have established mission-based non-profit organisations such as; *Slaves No More*, the *Counter-trafficking Office for Women and Children*, numerous shelters and reception facilities. Pope Francis has convened the *Santa Marta Group* of international Police Chiefs and counter trafficking personnel in an annual conference to address the issues of counter trafficking in dialogue with the Roman Catholic and other faith-based organisations. The aim of this group is to restore the human dignity of trafficked persons, protect and rehabilitate victims and their families, repatriate and reintegrate victims back home and organise prevention programmes.

Partnerships with other countries

The U.S. State Department has worked specifically with the Catholic Church on the matter of "human trafficking and slavery," Ambassador Miller stated that *"The Catholic Church is already well underway in getting involved in this problem. ...are potential allies in the fight against human trafficking and slavery"*

Shelter

There are numerous shelters up across Italy. A typical example is the Regina Pacis Reception Centre in Italy run by Caritas where Pope Benedict XVI celebrated a well-publicised meeting with its Kurdish residents. This body provides accommodation for victims.

³²³ ["Slaves No More, But Brothers and Sisters" Pope Francis - FAMVIN](https://famvin.org/en/2015/01/01/slaves-no-brothers-sisters-pope-francis/)
[...https://famvin.org/en/2015/01/01/slaves-no-brothers-sisters-pope-francis/](https://famvin.org/en/2015/01/01/slaves-no-brothers-sisters-pope-francis/)

1 Jan 2015 - "Slaves No More, But Brothers and Sisters" Pope Francis ... and to work to end human trafficking, trade in migrants and prostitutes, slave labor.

It would be a useful exercise to document the range, depth and capacity of the numbers of shelters and other resources which FBOs, Religious Congregations and other churches, synagogues and mosques supply in these challenging times for the victims and those vulnerable to trafficking abuse in Italy.

Other initiatives include social and legal counselling, housing, foster care, training of operators, seminars, contacts with countries of origin through local churches.

11.11 Are the Female Religious in your country working with any Prevention focused projects?

Women's Religious Orders have been strategic in coordinating anti-trafficking strategies in Rome for a number of years. They were instrumental to making explicit the lucrative and destructive underworld of human trafficking and slavery whilst working with illegal immigrants. With their early intervention working in Turin in 1991, helping enslaved women and young girl-immigrants in prostitution to regain their freedom and independence, a vibrant and sustained approach from the women Religious Orders has been taken forward under the leadership of Consolata sister, Sister Eugenia Bonetti – whose clarion call has been to enable a fresh renewed charism for religious and missionary sisters. She says:

*"We women, and especially Religious and missionary sisters, are called into question, because for us fighting against human merchants is a great challenge. The dignity of the person cannot be bought, bargained or sold."*³²⁴

The work is embedded in regular visiting every Saturday, with a group of sisters from various religious orders to the immigrant welcome centre of *Ponte Galeria* on the peripheries of Rome, where many young women await work visas and passports. Many are already in the grip of the human trafficking gangs.

It was Sr. Bonetti, along with three other sisters in 2013 21st September took the opportunity to speak to Pope Francis about their work and dedication to the eradication of this trade. They asked him to create a World Day against Trafficking in Persons. He designated the 8th February as a prayer day and the feastday of St. Josephine Margaret Bakhita, a Sudanese woman sold into slavery who on release became a Canossian sister in Italy, as the 'model' for victims of human trafficking and slavery. Bakhita day stands out in the Catholic days of special intention and action, alongside other dedicated days for counter trafficking action in the global calendar, such as Freedom Sunday, (aligned with the EU Anti Trafficking day), Not for

³²⁴ <https://cruxnow.com/global-church/2017/11/29/human-trafficking-sister-tells-immersion-life-night-streets/>

Sale Sunday, (third Sunday in May), the UNODC World Trafficking Day 30 July, and the EU Anti-Trafficking Day every 18th October.

Bonetti is clear on the drivers of human trafficking and the current waves of migrants who are in the thrall of ruthless smuggling enterprises as they make their way to safety seeking 'a better life.'

She told former President George W Bush

'leaders have three "wars" they must fight if they wish to put a stop to the exploitation of human beings. The first is against poverty, the second against ignorance, and the third against corruption.' [date??]

In 1998 NGOs undertook areas to combat human trafficking such as: outreach work, legal counselling, psychological support, housing and social insertion, vocational training and job insertion, training for social workers, awareness campaigns, interventions in the countries of origin. The main organisations that can be listed under this category are: Associazione On the Road (Martinsicuro), Gruppo Abele (Turin), Associazione Lule (Milan), Associazione Arcobaleno (Florence), Parsec (Rome), Cooperativa Dedalus (Naples), Cooperativa Compagni di strada (Bari). About 30 organizations belonging to the Coordinamento Nazionale Comunità di Accoglienza – CNCA (National Coordination of Care Communities) an ad hoc group for prostitution and trafficking.

Media

What is the general stance of Media on

- Migration – there is a great deal of activity reporting on immigration in Italian Newspapers. There tends to be more discussion around being 'overwhelmed' by migration, and concerns around the 'far right' response to migration, than discussion around how active integration and protection of unaccompanied children can be executed. The plight of unaccompanied children receives occasional coverage on national TV particularly reports on landings from boats of unaccompanied children. By and large the 'inside story' is not strongly disclosed, only sensational headlines.
- Trafficking victims – these are typically seen as young women from Nigeria working in Prostitution. However there are not many documentaries dedicated to exploring the ambiguities and challenges of sex trafficking in Italy. There is very little work on Labour Trafficking in the Italian Media.

- Particular ethnicities are deemed as more problematic than others. More work needs to be done around exploring the range of ethnic backgrounds caught in the cycle of forced migration and asylum-seeking.
- Trafficking offences covered most in the Media are for sexual exploitation.

Do these tally with the overall Country profile / offences and vulnerabilities profile of the UNODC? Insufficiently in terms of the range of offences which can be in place around domestic servitude and labour trafficking.

Some examples of stories being covered give a flavour of the general tone adopted.

Most recently <https://www.politico.eu/article/macerata-italy-shooting-raises-stakes-in-immigration-debate/>

<https://www.thelocal.it/20170714/italy-proposes-a-pact-with-libya-to-tackle-human-trafficking-illegal-migration>

Italian Interior Minister Marco Minniti on Thursday proposed a pact with Libya to combat human trafficking during a visit to Tripoli to meet Mayors of cities affected by the scourge.

"We will make a pact to liberate our lands from traffickers," Minniti told 13 Mayors from south Libya, urging them to mobilise against people smugglers.

<https://www.thelocal.it/20160926/italy-is-running-out-of-money-to-accommodate-migrants>

Around 13,000 (now considerably increased) live in welcome centres, while 22,000 are staying in Sprar (Protection System for Refugees and Asylum Seekers) centres or secondary reception centres, and many are being housed in temporary structures while they wait for the outcomes of their asylum applications.

The cost to Italy of providing accommodation, food and healthcare for new arrivals is over €1 billion EUR (2015 estimate). (except this story did not show the assistance received from Brussels in this costing)

12. Safeguarding and Protection.

Are there particular reasons why working in this area of child protection may instigate wider issues to be addressed by the Roman Catholic church and the Religious Congregations?

Wider issues to do with the fundamental principles upon which the Roman Catholic faith is based, such as respect for life; recognition of the dignity of the human person; love for one's fellow human being; all persons are made in the image and likeness of God; our obligations to act like the Good Samaritan; justice and equality amongst the sexes; the sacredness of children, as referenced in "Suffer the Little Children to come unto me, for theirs is the Kingdom of heaven."

The social and economic profile of the child-victims of trafficking and exploitation, offer a faithful picture of the geopolitics of global inequality. According to the ILO, 81% of victims are represented by women and children recruits in countries with high levels of unemployment and poverty, and with fragile- if any- welfare systems, institutional transitions and weak legal systems.

Thus the wider issues for the Catholic Church centre upon getting their faithful to live up to the challenges to live and treat each human being in accordance with the teachings of the Gospel.

Which are the lead organisations in the country currently working on Safeguarding?

Save the Children, Italy; Terre des Hommes, Italia; CARITAS Italia; CIAI- Italian Centre for Assistance to Children; CISMAI- Italian Coordination of Services against Child Abuse and Ill-treatment; Italian Committee at UNICEF.

Are there some best practices here which are worth sharing across other countries?

Yes, most likely to be shared through inter-European and international collaboration and the sharing of reports, research and evolving best practice.

Are there clear protocols in place in engaging with FBOs and what is required from them?

Researcher was unable to determine the existence of any such protocols at this time.

13. IMPLEMENTATION and MONITORING

13.1 Is there one Ministry that is leading in developing and implementing National Policy responses to Child Trafficking?

Yes. Since January 2011, the Department of Equal Opportunities of the Italian Presidency of the Council of Ministers has overseen the issues related to human trafficking

13.2 Is there an OFFICIAL MECHANISM to monitor the implementation of national policy responses on human trafficking in the country?

Italy does not have an independent Ombudsman at present. This sits with the Department of Equal Opportunities of the Italian Presidency of the Council of Ministers.

14. GOVERNMENT AGREEMENTS

14.1 Are there any BILATERAL AGREEMENTS in force (between Governments) on the issue of human trafficking?

Between 2002-2004 and February 2008, there was a bilateral agreement [*use the same terms as in the question*] between the governments of Italy and Nigeria: '*Preventing and Combating Trafficking of Minors and Young Women from Nigeria to Italy.*' It was entrusted to UNICRI (United Nations Interregional Crime and Justice Research Institute) to administer and funded by Italy. Firstly, the initiative strengthened the relationship in both countries between the most qualified institutions responsible for combating trafficking. It also brought about the exchange of information and joint investigative methodologies. These initiatives were supportive of cross-border work in relation to the criminality of human trafficking. Secondly, the agreement was devoted to institutional capacity building, strengthening monitoring and protection through bilateral cooperation with Nigeria.

Similarly, governments of USA and Italy agreed to act to on the growing criminal enterprise by focusing on human rights protection of trafficked victims, increase prosecution of the crimes associated with trafficking, find ways to assist victims in the prosecution of their traffickers, increase the public awareness of the problem, and coordinate the fight against trafficking with all of the countries involved, - origin, transit and destination. To this effect a Working body was established. This was the USA – Italy working group begun in Rome 14 April 1998 for the Protection of the rights of victims of trafficking. Its aim was to: exchange best practice with respect to assistance, protection and social integration of victims and strategies for victim outreach in both countries.

In 2017 the governments of ItalyLibya undertook a compact, seeking to control the inflow of migration across the Mediterranean from Libya. This strategy has collapsed under the pressure of the ongoing power struggle in Libya.³²⁵

³²⁵ <https://www.theguardian.com/world/2017/oct/03/italys-deal-to-stem-flow-of-people-from-libya-in-danger-of-collapse>

14.2 Are there any MULTILATERAL AGREEMENTS in force (between Governments) on the issue of human trafficking?

14.3 IF YES, Specify.

Yes. The European Union policies and agreements fall into this category and has resulted in the release of Directives and Actions. Similarly, the international response to act and to coordinate anti-trafficking activities with other nations led to the UN Convention against Transnational Organised Crime. It includes the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, and the Protocol against the Smuggling of Migrants by Land, Air and Sea. Several multilateral agencies work against trafficking, chief among them ILO, IOM, UNHCR, UNICEF, UNOHCHR and UNODC. Many others get involved from time to time, for example UNAIDS, UNDP, UNFPA, UNESCO and UN Women.

In the same vein there is a European Union Plan on best practices, standards and procedures with aims to combat , prevent human trafficking. Its activities include data collection, prevention, investigation and prosecution. It also offers support to victims in areas as protection, return and re-integration.

15. LEGAL FRAMEWORK.

15.1 Is the legal definition of a “CHILD” in line with the definition of the Convention on the Rights of the Child?

Yes. The 1989 UN Convention on the Rights of the Child was ratified and absorbed Italy’s legislation.

15.2 What is the LEGAL AGE in the country for a child to take up employment?

The minimum working age in statutory law is set at 15 years, but the civil law varies as it states 18 years.

15.3 What is the LEGAL AGE for completion of compulsory education?

Law no 9 of 1999 establishes 9 years of compulsory school attendance or to the age of 15. Law no. 144 of 1999 establishes that local government has responsibility for guaranteeing that children over 15, who do not intend to continue their studies, can follow alternative training paths to introduce them into the world of work. Article 1 of Act No. 977/67, *"Occupational Safety for Children and Adolescents,"* as amended by Ordinance No. 345/99, clarifies the definition of a ‘child’ as under 15 years of age or still in compulsory education. An adolescent is between 15 and 18 and no longer subject to compulsory education.

15.4 What is the MINIMUM AGE in the country for entry into Military Service?

It is 18 years. Act of Law 331/2000, in conjunction with Law 2/2001, provides that voluntary recruitment into the army can only be made once a child reaches 18.

15.5 What is the age of SEXUAL CONSENT?

The age of sexual consent is 18 years. Act of Law 66 of 1996 entitled 'Law on sexual abuse', and Act of Law 269 of 1998 entitled 'Regulations against the exploitation of juvenile prostitution, juvenile pornography and sexual tourism to the detriment of children under 18 years of age as new forms of 'slavery.'

15.6 What is the MINIMUM AGE in the country for MARRIAGE?

With parental consent, 16 years. Without parental consent, 18 years

15.7 Is every child in the country REGISTERED at birth?

Yes. It is mandatory to register the birth of a child with the Registrar of births, Marriages and deaths locally known as Registro Comunale Dello Stato Civile.

15.8 Does every child require a PASSPORT / Legal document for travel to another country?

Yes. The Department for Civil Liberty and Immigration, Ministry of Internal Affairs] signed a cooperation agreement with the IOM – International Organization for Migration - to assist to assist trafficked victims in ensuring their safe return, hence the IOM makes the travel arrangements and prepares all the documentation and funding necessary for the return.

15.9 How does identification and verification of the age of the Child/adult occur?

According to Article 5, paragraph. 3, of Prime Minister Decree n. 535/1999 a child's identity and age are assessed by police officers in cooperation with the diplomatic authorities of the child's country of origin. According to the 2003 Linee guida [Guidelines] issued by the Committee for Foreign Minors, if the child has a valid identity document (i.e. passport), indicating only the year of birth, it is common practice to assume the birth date as 31 December of the indicated year. However, if the child has no valid documents or it is not possible to ascertain his/her age, an age assessment is carried out by independent professionals (usually doctors) on the basis of the child's physical and psychological development taking into account cultural factors, his/her ethnic and geographical origin. If all of these procedures fail to establish the child's age, the child is presumed to be a minor. In any case the child is treated (and given protection) as a minor until his/her correct age is proven.

15. 10 What are the issues arising for your child advocacy groups around this issue?

There is no information available to date.

15.11 What are the issues arising around this from your national Police and immigration services?

There is no information available to date.

16. LEGISLATION

16.1 Does legislation in the country criminalise human trafficking?

Yes. Legislation criminalises all forms of human trafficking. This is laid out in Articles 600-602 of the Italian Penal Code as amended by Law no 228/2003. It is punishable with imprisonment from 8-20 years.

16.2 Which forms of exploitation does the definition of human trafficking include? (circle relevant): Prostitution of others? Other forms of sexual exploitation? Labour exploitation? Slavery or practices of slavery? Removal of Organs? Illegal Adoption?

The legislation touched on sexual exploitation child prostitution, pornography slavery, organ removal, forced labour, begging. Illegal adoption was not included.

16.3 Does the legislation apply to CROSS-BORDER trafficking?

There is no express provision for addressing cross-border trafficking, but there is legislation that guards against the prostitution of a child. Article 600 criminalises anyone who organises a journey (internal or cross-border was not specified) aimed at exploiting the prostitution of children, with either imprisonment or a fine. .Human trafficking often refers to movement. Yet it is often unclear the degree of movement required for a case of trafficking. Central to this question is whether human trafficking requires the movement of people across international borders for proper classification. Although, the legislation did not state in particular the route of trafficking but rather just laid emphasis on punishing strictly the forms of trafficking.

The UN Protocol does not require a person to have been transported across international borders to be viewed as a victim of trafficking. The Protocol describes trafficking as *“recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power... for the purpose of exploitation .”* These actions suggest a complex, multi-stage process, with a measure of transfer. They do not specify the nature or extent of the movement required.

This could be a legal validation for why the borders were not indicated when the crime of trafficking was realised into legislation in Italy.

16.4 Does the legislation apply to INTERNAL trafficking?

Article 600 criminalises anyone who organises a journey (internal or cross-border is not specified).

16.5 Does the legislation apply specifically to trafficking of CHILDREN?

Yes. The legislation stated children under age 18. Decree law no 341 also contains measures for the protection of children, particularly setting time limits on the duration of the investigation for serious crimes related to the sexual exploitation of children, including prostitution, pornography, human trafficking, slavery and sexual violence.

16.6 Does the legislation make reference to the RIGHTS OF THE CHILD and/or the specific BEST INTERESTS OF THE CHILD?

Local government bodies and NGOs - delivering the aid and social integration programmes - will adapt interventions to the specific needs of trafficked victims, irrespective of age. This is established by Article 18 of the 1998 Italian Law on Immigration and the special programmes established by Article 13 of Law n. 228/2003.

16.7 Does the country have legislation on child labour?

Yes. Law No. 148 of May 25, 2000 prohibits the worst forms of child labour. Immediate action for its elimination is based on the ratification of the Geneva Convention No. 182.

16.8 Does the country have legislation to regulate Child Migration?

Testo Unico (Consolidated Act) 286/98, Article 33, DPCM 535/99 requires for unaccompanied asylum-seeking children into Italy to be reported to the Committee for Foreign Minors. This Committee undertakes an investigation of the child in his/her country of origin and makes the decision to repatriate or not the child in question. However the *Zampa legislation* restricts the decision owing to its stringent recommendations and concerns around refoulement.

16.9 Are there LEGAL PROVISIONS to guarantee that child victims are protected from the effects of giving evidence in open court? What are these?

Protection of child victims is paramount but in reality, very few child victims of trafficking get as far as the court system in Italy, let alone being protected from the

effects of giving evidence in open court. The vast majority of child victims of trafficking and exploitation, remain outside the national protection system pursuant to Art.18 Legislative Decree 286/98 and pursuant to Art. 13 Law 228/2003. These victims help outline a phenomenon which is underground and difficult to trace in statistic-quantitative terms, as often the exploitation of the youngest victims takes place in houses or closed places; their discovery takes too long and because many unaccompanied foreign children are travelling through Italy and are quickly moved from one town to another.

16.10 What are the guidelines for the participation of child witnesses and victims to bring their case to court?

Italy adheres to the guidelines as set out in formal documents such as the EU Anti-Trafficking Directive; the UN Convention on the Rights of the Child; the Charter of Fundamental Rights of the European Union; the Convention on Action against Trafficking in Human Beings; Guidelines on the Protection of Child Victims of Trafficking, UNICEF, (2006).

16.11 Is there provision for victimless prosecution?

Yes. The traditional tools and techniques long-employed in organized crime help take the weight off victim's shoulders. Investigations are victim-centred, not necessarily victim-dependent. The victim's story is important in every case of human trafficking. Nevertheless, the police endeavour to build an independent case against traffickers, thereby seeing the victims as corroboration of other types of evidence, rather than casting them as star witnesses at trial. This proactive approach to prosecution for human trafficking not only helps to overcome a child-victim's potential lack of credibility, unavailability or uncooperative nature but also to avoid the prospect of retraumatizing a child-victim within the criminal justice process itself.

16.12 Are there instances which need to be verified of those who have been victims of trafficking ending up as under criminal charge?

Yes. However, the state needs to ensure that children trafficked for the purpose of criminal exploitation are not arrested and prosecuted for offences they have committed as a result of being exploited. In particular, Italy needs to implement the non-prosecution provisions contained in Art. 8 of the EU Anti-Trafficking Directive and Art. 26 of the Anti-Trafficking Convention.

Children who have been trafficked are best identified and protected within an integrated child-protection system, involving children's or youth welfare services,

the police, the prosecution service, health and education services, independent guardians and NGOs.

16.13 Are there LEGAL PROVISIONS to appoint an appropriately experienced Lawyer to represent child victims?

Yes. However, due to the fact that a trafficked child is likely to have to engage with a range of complex legal and judicial processes, (s)he needs to be represented by suitably trained and experienced lawyers.

In many cases, a trafficked child may be appearing in a number of different courts and, where this is the case, his or her lawyers will need to liaise with each other and have at least a basic knowledge of the law being implemented in other court proceedings.

Trafficked children's long-term prospects are better protected if all EU states put in place a formal multi-agency 'best interests' determination process which is capable of identifying an individual, durable solution for each child as required by Art. 16.2 of the EU Anti-Trafficking Directive.

17. LAW ENFORCEMENT

17.1 How many CHILD-TRAFFICKING CRIMES have been RECORDED (by police) are UNDER INVESTIGATION, were CONVICTED were PROSECUTED in the country? (fill in table)

Year	Recorded by Police	Under Investigation	Convicted	Prosecuted
2010	2381	2333	174	621
2011	1560	2624	179	370
2012	2631	2270	135	805
2013		3803	74	1024
2014		44	11	16

Sources Eurostat and US TIP reports

17.2 WHAT kinds of SENTENCES were imposed on those convicted of child trafficking?

No data is available on sentences that have been imposed.

Article 600-bis Criminal Code - "Child prostitution" The provision sanctions with imprisonment from 6-12 years and a fine from thirty to 300 million lire anyone inducing a child under 18 years of age to prostitute him/herself, namely anyone abetting or procuring prostitution involving a child.

Article 600-the Criminal Code - "Child pornography" Whoever exploits a child under 18 with the purpose to perform pornographic exhibitions or to produce and/or sell pornographic material shall be punished with imprisonment for 6 - 12 years and a fine from 50 to 500 million lire. The provision also sanctions with imprisonment for one to five years and a fine of from 5 to 500 million lire anyone distributing, spreading or advertising pornographic material by any means, including Internet, in order to solicit or sexually exploit children. It also punishes with imprisonment up to 3 years and a fine from 3 to 10 million lire anyone deliberately providing free pornographic material, produced through the sexual exploitation of children.

17.3 Are there instances that you have encountered (second or third Party) or seen reported on the Criminal Justice process having been subverted – with corruption, or simply a financial penalty and not imprisonment?

No comment from the interviewee.

17.4 Is there training for Law Enforcement – for Criminal Justice System (Judges, Prosecutors) widely available?

Yes. The law requires training courses for public officials on areas related to trafficking in human beings and international protection as they come in contact with victims or potential victims of trafficking. However the 2017 US TIP report comments that this training is not rolled out adequately across public agencies.

17.5 What form do your court processes take? (Jury / number of Judges)

Italy does not use a jury, but rather a system of judges or a panel of 3, 5 or 9 judges depending on the case.

17.6 How many children APPLIED for ASYLUM? How many were GRANTED Asylum? Which Countries (fill in table)

The data shows the number of children who applied for asylum only.

There is no data available re. applications granted and there is patchy information regarding the countries of origin.

However, Italian law guarantees protection for all unaccompanied children with the right and permit to stay in Italy even if they do not apply for asylum.

Year	Number Applied	Number Granted	Countries
2010	305		
2011	825		
2012	970		Afghanistan, Somalia, Pakistan, Guinea, Syria
2013	805		
2014	2,505		
2015	4,070		Gambia, Nigeria, Senegal
2016	6,020		

18. TRAFFICKING STATISTICS

18.1 Is there DATA available to show the number of CHILDREN trafficked INTERNALLY / INTO the country from abroad / OUT OF the country to other countries? (fill in table - state the names of the countries, if known. If there is NO DATA available, mark table with ND)

YEAR	NOS OF CHILDREN	Domestic trafficking	INTO THE COUNTRY	OUT OF THE COUNTRY	Source
2010	ND		<i>From</i>	<i>to</i>	
2011	ND		<i>from</i>	<i>to</i>	
2012	ND		<i>from</i>	<i>to</i>	
2013	ND		<i>from</i>	<i>to</i>	
2014	ND		<i>From</i>	<i>to</i>	2016 report
2015	900		Nigeria	Italy	IOM
2016	2,319		Nigeria	Italy	GRETA 2016

19. ASSESSMENT and RECOMMENDATIONS

19.1 What is the NATIONAL DEBATE on child trafficking in the country?

The national debate in the Media is not strong as there is more an issue of migration numbers rather than the challenge of unaccompanied children.

NGOs such as *The Red Cross, Save the Children, World Vision*, IRC, IOM and UNICEF have kept up sustained lobbying with the Italian legislature about the risks to severe harm, sexual exploitation and trafficking for unaccompanied children coming into Italy. The historic *ZAMPA legislation* was the result of this two year campaign undertaken by this consortium.

On Social Media there are a number of legal agencies, NGOs and FBOs using Social Media but their voice is not particularly strong in this arena as yet. There is more which could be done in this area across the churches and faith-based organisations.

19.2 If YES, WHAT particular aspect is being debated? (e.g. Prevention? Protection? Migration? National Security? National Identity? Religious Continuity?

The faith-based sector is not fully embracing social media to communicate its message.

19.3 In what way is your country being affected by the recent surge in migration from MENA and Sub Saharan Africa?

The substantial influx of migration from MENA and Sub Saharan Africa has caused the uneven distribution of resources as there are unlimited wants calling on limited resources (of the state). Migration is seen to have a negative impact on the economy of the State. In terms of employment being provided to cater for those arriving, across education, health provision, social and legal protection, undoubtedly there has been a positive financial impact with remuneration flowing into Italian Local Government coffers for the work undertaken on behalf of the European Union. Furthermore the incorporation of many migrant youngsters into occasional domestic work has benefitted individual householders. A true assessment of the economic impact of migration has yet to be undertaken. It will show undoubtedly some interesting conclusions when the data is analysed on enhanced social protection and the infrastructure of the health system. Because of the negative and popular understanding of the 'cost of migration' the Italian government has responded by cutting funds assigned to migration. In the response to unaccompanied children, a minimum of 1 billion EUR is spent annually in Italy through the SPRAAR (Protection System for Refugees and Asylum Seekers) schemes on supported reception centers, foster carers, medical, psychological and educational support for approximate 30,000 unaccompanied children arriving on its shores.

19.4 What GOOD PRACTICES are taking place in your country to prevent children trafficking? Please expand on any such practice which you have identified in conversation with your stakeholders.

The *Zampa Legislation* of 2017 sets a gold standard for Europe to follow in relation to the reception and onward protection of unaccompanied children. The public authorities inculcate good practice by working together with civil society organisations to provide full social protection to the victims at central, regional and local level. More could be done in relation to monitoring, support and financing of centres and SPRAARs set up for reception and onward protection.

19.5 Are there Safe routes for inward migration and settlement of unaccompanied children?

No. Crossing the Mediterranean in a dinghy boat following a long trek through the Sahara is not safe. The challenge to reach unaccompanied children before they cross over the Mediterranean where a disproportionate number of them are estimated to die has yet to be explored.

Resilient forms of Victim Identification and Resilient forms of Assistance ?

These are improving.

Resilient forms of initial Protection?

The first thirty days of protection for the child is well organised.

Sustainable and Safeguarded environments for education, health care, and the enjoyment of family life ?

Italy has worked hard to provide these for unaccompanied migrant children reaching its borders.

Resilient forms of protection and identification?

These are improving.

19.6 How many are seen to go missing after the initial phase of identification – and settlement. What records are being made of these and how are they being escalated when it occurs?

It is guestimated that around 5% of unaccompanied children go missing. This figure is disputed by IOM and other NGOs as they estimate a much higher percentage.

19.7 What provision for the Spiritual needs of children whilst under the Protection of the State?

Faith-based organisations provide pastoral care in SPRAARs and Reception centers where they can gain access to them, but often on an *ad hoc* basis.

19.8 What is the role of the Red Cross in your country to enable Family 'location' and re-connection?

The Red Cross provides victim assistance and repatriation. It has ensured safe voluntary repatriation of victims to their country of origin. This is achieved through collaboration partnership with embassies and NGOs.

19.9 What recommendations for action are emerging from the International bodies tasked with overseeing best practice for the delivery of the Rights of the Child?

GRETA has undertaken two visits to review provisions in Italy and has specifically reported on some of the requirements missing in provision for unaccompanied children seeking asylum (UASC).

The Red Cross along with other partners such as *World Vision*, IRC and UNICEF provides 24/7 emergency response for unaccompanied children. These agencies are typically some of the first care-givers that an unaccompanied child will meet in Italy or on the Mediterranean. All these NGOs have given significant sums of money to supporting efforts in the arena of reception, protection and community integration where this is supported by local Mayors and communities.

UNICEF ascertains that the best interest of the child should be the primary consideration in all actions at all times by public/private social welfare institutions, courts, administrative or legislative authorities in dealing with children.

UNICEF have constantly lobbied for an improved protective environment for children as they arrive in Italy and this remains a priority. It noted that unmeasured problems often go unsolved. Hence there is the need for consistent, credible data about children's situations that are critical to improving their lives and indispensable to realising a child's rights. Currently UNICEF is now reviewing the reception accommodation for UASC's in Sicily. Then its report will inform the Italian Government on the conditions which pertain to children and suggest recommendations for improvement.

Save the Children has a mandate to promote and establish a national and transnational referral system for victims of trafficking. It will include standardised operational procedures for identification, management and care of child victims based on the rights of the child. This mandate has only just been secured. *Save the Children* is currently developing procedures to define clearly the roles and responsibilities of the different actors involved in UASC management and provide guidance for their effective co-ordination. It will set out minimum standards for the provision of contact and assistance offered to children.

* Responses to the following questions 19.10 – 19.14 have been amalgamated beneath 19.14 below.

19.10 What are the SHORTCOMINGS in relation to child trafficking? (e.g. Lack of data? No legal policies or framework in support of prevention or protection?)

19.11 What are the FACTORS that INHIBIT effective efforts to prevent child trafficking in Country?

19.12 What RECOMMENDATIONS emerge in conversations with your stakeholders which need to be put in place so as to be effective in preventing child trafficking?

19.13 What is the current thinking about PUSH factors of Poverty, or lack of political voice, or gender disempowerment, or corruption which are operating in countries of source?

19.14 What are the factors which Politicians, NGOs and Police believe are driving the continued presence of Child Trafficking in your country?

With migration, street prostitution became more visible from the 1990s. This happened because persons in prostitution were considered to be foreigners mainly. In southern Italy, Ghanaian and Nigerian women and children were visible in prostitution. This has influenced public attitudes and opinion particularly with community groups from urban neighbourhoods where street prostitution is visible. Since 1994, some municipalities have tried to police sex work themselves including targetting clients directly. Actions taken by these community groups such as naming and shaming by sending notices to homes of clients or confiscating vehicles. Charging clients with aiding and abetting prostitution was blocked by a tribunal in Perugia in September 2000. Continuing police activity became a national focus following the suicide of a client that year.

Another initiative in 1995 was to create tolerance zones, such as in Mestre, the mainland of Venice. A more tolerant approach has emerged from local authorities, based on the principle of "harm reduction" ("riduzione del danno"). This means that in most cities there are clearly 'zoned areas' where street prostitution occurs. It is tolerated culturally that male clients will frequent these areas. Unless there are other areas of legal breach the police tolerate this practice. Although street prostitution and soliciting is illegal, tolerance means that street, off street and brothel prostitution flourishes in Italy.

Some municipal authorities have created confusion by erecting signs drawing attention to prostitution occurring in the neighbourhood.

Labour Trafficking is prevalent in the country with a substantial and widespread client base of employers (exploiters) According to a report issued by the Ispettorato del lavoro dei Carabinieri ("Work Inspectorate of Carabinieri") 55% of Italian

companies make use of the so called “black labour force” that is, illicit and unregulated labour. This ready market for illicit and unregulated labour makes Italy ripe for deployment of human trafficking..

Poverty as a source-driver, political instability and domestic violence is a major push factor for trafficking as those sucked into its processes are seeking a better and safer life.

Due to its geographical location, Italy been an open door to the rest of Europe because of its proximity to North Africa.

Conclusions and recommendations.

When considering what you have discovered so far in this research, what contribution could the Congregation of Religious, the wider Roman Catholic Church, churches and FBOs make to relieve the brutality and effacement of Childhood which Child Trafficking represents?

Faith-Based Organisations perceive themselves as assisting through the following means:

Prevention

- Media advertisement that provides help for victims, this also includes the distribution of brochures and posters, as well as the use of social media.
- A prominent presence on social media and the availability of live chat sessions.

Protection

- Adoption of the children and encourage members of their congregation to adopt
- provide shelter

Prosecution

- Form pressure groups that will spur the government to increase its effort in prosecuting traffickers.
- institute collective action (as concerned parties) in the court as stakeholders or joint action with victims to prevent trafficked cases from being handled too lightly.
- offer free legal services with the aid of prosecutors.

ⁱ Ibid

Prepared by Sr. Margaret Gonzi, Ms. Bernardette Briffa, Ms. Charlie Thompson
and Rev Dr Carrie Pemberton Ford.

Country Overview.

The Malta demographics profile of 2016 shows a population of 415,196. In looking at the immigration issue it is important to note that Malta is the most densely populated country in the EU and one of the most densely populated countries in the world with about 1,265 inhabitants per square kilometre. One has to keep in mind that the Maltese culture has been impacted upon by the various peoples that have inhabited the island since prehistoric times: Sicilians, Phoenicians, Romans Byzantines, Arabs, Normans, Spanish, French and British – all of whom have influenced Maltese life and culture to varying degrees. Roman Catholicism is established by law as the religion of Malta. Full liberty of conscience and freedom is guaranteed. Malta has two official languages, Maltese and English.

Since the late 20th century Malta has become a transit country for migration routes from Africa to Europe. In 1990 -91 Malta hosted a number of Iraqi asylum-seekers that were later resettled elsewhere. Since 2001 a high number of migrants from sub Saharan Africa landed in Malta, many of whom were entitled to international protection. In 2011 immigrants came from Somalia, Nigeria, Eritrea, and Syria. In 2015 very few migrants arrived in Malta despite the fact that the rest of Europe experienced a migratory crises.

In these last years there is a change in migration. Whereas former 1,500 asylum applications came by boat from Africa, in 2015, asylum-seekers, mainly Libyans, arrived with a valid visa and sometimes had purchased property in Malta before arriving and applying for asylum.

Previously, Malta pursued a policy of keeping asylum-seekers in detention for prolonged periods of time. This is no longer the case as the policy has been changed to a detention period of nine months as stipulated in Legal Notice 417 of 2015, “any person detained in accordance with these regulations shall, at the expiry of nine months, be released from detention if s/he is still an applicant.” However regarding

vulnerable persons, unaccompanied children and potential or identified victims of trafficking, the detention requirement is waived in Maltese legislation.

According to Dr. Ahmed Bugri who has been living in Malta since 2001,

“ The refugee situation in Malta is changing so fastThe problem in Malta now is not one of immigration but inclusion. What happens to the refugees who arrived during the crisis but have stayed here and not moved on to other countries? They are living on the periphery. In the next 10 years, you will see their poverty manifest itself on the street. And the approximately 5000 irregular migrants from African countries residing in Malta may be vulnerable to trafficking in the country` s informal labour market, including within the construction, hospitality and domestic sectors.”

(The Guardian 3rd May 2016, Alexander Masters)

According to the 2016 Trafficking in Persons Report (TIP) by *The Office to Monitor and Combat Trafficking in Persons*, Malta falls within tier 2, a source and destination country for women and children subjected to sex trafficking and a destination country for women and men subjected to labour trafficking. There has been a gradual increase in the number of registered victims being reported, amounting to a total of 11 registered victims in the years 2010 to 2012, and in the years from 2003 to 2016, 21 reports were filed by the police regarding trafficking in persons and in the same years 188 victims of trafficking in persons were identified in Malta.(From *Assistance in the Identification of victims of Trafficking*)

As noted above, Malta is primarily a destination country for women and children trafficked for sexual purposes from Eastern European countries such as Ukraine, Russia and Romania. Situated at the intersection of southern Europe and northern Africa, Malta has also been exposed to increasing transit flows of irregular migrants. Between 1,500 and 1,800 illegal immigrants from Africa arrive in Malta each year. It is unclear whether any are trafficked to or through Malta for sexual exploitation.

Extent and Patterns of CHILD TRAFFICKING in the country.

In Malta, according to the 2009 *FRA Thematic study on child trafficking (Malta) p 3par 3*, trafficking of minors is not dealt with separately in a specific manner but is dealt simultaneously with trafficking of persons of age. The only provision of the Criminal Code in the case of minors is an increase in the punishment that may be given and no particular means need to be used. There is no specific National Referral Mechanism for children as the NRM is flexible enough to be applied both to adults and children.

According to the *Literature Review on populations at risk of child Trafficking in Malta*, **KOPIN** , a Malta-specific set of indicators of trafficking has been drafted. However the study states that no information is available on whether child-specific indicators or sets of indicators specifically targeted at the identification of child trafficking have been created. In its report, GRETA (2013) explicitly urged the Maltese authorities to take further steps to ensure that national action to combat human trafficking is comprehensive, in particular by, inter alia, adopting a proactive approach to detecting child trafficking.

47 Maltese children are identified as vulnerable to internal and international trafficking primarily in the sex industry. Migrant children (read: asylum-seeking children) especially unaccompanied minors, are vulnerable to trafficking to, through and from Malta. Whilst no quantitative vulnerability assessments have been carried out, existing literature highlights these communities as specifically vulnerable. Vulnerability of unaccompanied minors to trafficking has been highlighted inter alia by the NGO Aditus and JRS (Jesuit Refugee Service) Malta in their submissions relating to a National Children's Policy. Each expressed concern regarding the vulnerability of migrant children, and in particular unaccompanied minors upon release from detention and when travelling abroad alone. (Kopin)

The vulnerability of migrant children is also noted in the US TIP Reports (2017) and (2018).

The Standard Operating Procedures of the NRM specify the need for training in the identification and treatment of child victims of trafficking. This goes for all officials involved . Staff of the *Child Protection Service* of the Governmental Agency "Appoġġ" have undergone training on identification of child victims of trafficking.

The National Action Plan for 2015-2016 also insisted on the need for training for law enforcement officers, for service providers in the child-care sector, and the development of guidelines for the identification of child victims of trafficking.

The EMN (European Migration Network) 2015 study on unaccompanied minors in Malta 2015, showed that several member-States including Malta, created systems to register and monitor unaccompanied children. Fingerprints and photographs are taken of unaccompanied children at first contact with border police to serve as an aid for tracing disappearances.

According to the *Actions in the Member States* in the GRETA Report, border guards and police authorities receive special training to help identify children as particular victims of trafficking.

Border guards are trained both in-country and abroad in identifying possible victims and perpetrators of trafficking. The training includes the detection of traffickers and victims and gathering first-hand information. Maltese border guards participated in Project Vega Children organised by Frontex and actively contributed to the handbook developed under this project.

The Greta Report (2017) insists on the importance of a multi-agency involvement in victim detection and identification. There is a need to provide operational indicators, guidance and toolkits to frontline staff. GRETA placed emphasis on improved awareness for the identification of victims of trafficking amongst asylum seekers and irregular migrants in detention. So immigration officers need regular training and enhanced co-operation with UNHCR Malta

A list of national indicators for identifying victims of human trafficking has been developed (see below). The list was disseminated amongst stakeholders likely to encounter potential victims or victims of human trafficking, including the police (Vice Squad, Immigration and Border Control), the Agency Appoġġ, the Agency for the Welfare of Asylum Seekers (AWAS), the office of the Commissioner for Refugees, the Employment and Training Corporation (ETC), the Jesuit Refugee Services and Caritas Malta. Representatives of these stakeholders were involved in drawing up the indicators. The indicators include:

- inability to speak Maltese or English;
- inability to indicate place of residence;
- absence of identification documents;
- fear of the authorities;
- constantly being accompanied by a person speaking on the possible victim's behalf; limited freedom of movement;
- excessively long working hours;
- overcrowded accommodation;
- signs of being accommodated at the work place.

Regular training for Immigration officers and staff employed in diplomatic and consular offices is important. GRETA also advises the introduction of a checklist to identify potential THB (Trafficking in Human Beings)-related risks during the visa application system.

According to a study by ECPAT and the Body Shop regarding Child sex trafficking in Malta, no reliable data is available on the extent of trafficking of children for sexual exploitation. Similarly, Malta does not record a large number of children sexually

exploited through prostitution. Most cases of sexual exploitation of children are related to the possession of child pornography.

The leads

The Minister for Home Affairs and National Security.

The Anti-Human Trafficking Committee

Ministry for the Family and Social Solidarity

The Ministry for Health and Energy

The Foundation for Welfare Social Services (Appogg, the National Agency for Children, Families and the Community)

The Department for Industrial and Employment Relations,

The Department of Citizenship and Expatriate Affairs including the Central Visa Unit

The Employment and Training Corporation

The Refugee Commissioner

The Ombudsman for Children

Caritas Malta

The Jesuit refugee Service

IOM

The Staff of the Police Vice Squad

AWAS (The Agency for the Welfare of Asylum Seekers)

Social workers from Community Outreach Centers

The Office of the Commissioner for Children

The Office of the Commissioner for Children has designed and implemented various awareness-raising activities, including online safety for children. The Child protection services of the Agency Appogg and the Police co-operate in preparing and delivering training and awareness-raising programmes against child abuse, including trafficking. Additionally, the NGO Kopin participated in a European Union anti-trafficking project entitled "Catch & Sustain" on methodology building for prevention of child trafficking. An officer from the Maltese Ministry for Home Affairs

and National Security delivered training on Child trafficking indicators to the participants in this project.

Difficulties in identification?

The GRETA Report (2016) notes that the identification of child victims of trafficking is difficult due to a lack of systematic consideration of the possibility of trafficking by officials and professionals coming into contact with unaccompanied and separated children.

The fact is that according to the above mentioned (*2016 Trafficking in Persons Report*,) Maltese courts have convicted some children for prostitution in recent years and these may have been victims of sex trafficking. Illegally migrant, some of whom may have been trafficking victims, were routinely held in detention centres. In the period 2012-2016, a total of 67 victims and presumed victims of trafficking were identified. Only one of the presumed victims was a child.

GRETA Report 41 notes that the Policy Directorate within the Ministry for Home Affairs and National Security hosts a data base set up in 2014 which contains some information on perpetrators and victims. Stakeholders such as the Police, the Jesuit Refugee Service and the Agency Appogg feed data into it.

When the age of a potential victim of trafficking is uncertain, an age assessment is conducted by a team of relevant professionals using a semi-structured interview. The benefit of the doubt is applied and only in cases in which it appears clear that the person is an adult and the person continues to insist that he or she is a child, the person is referred for a hand and wrist x-ray. The medical results are referred back to the age-assessment team and are taken into consideration together with a psycho-social age assessment. The person is presumed to be a child until proven otherwise.

Causes of Child Trafficking

The ongoing migration crises increases the possibility of child trafficking. Unaccompanied children without a responsible adult are a high risk for trafficking in human beings. According to the EMN study of unaccompanied children in Malta, generally they come from countries in Eastern Africa, the most numerous from Somalia, a country characterised by 20 years of conflict, followed by Eritrea and Ethiopia, where young persons are called up to military service with no limited time frame. Some unaccompanied children are from Sudan, Ivory Coast, DR of Congo, Niger, Mali and Sierra Leone. There seems to have been an increase in persons coming from Nigeria that may raise special concerns about human trafficking.

Meanwhile, there has only been two cases of unaccompanied children arriving from outside Africa and none from EU countries.

In March 2017 Eurostat published a compilation of annual data on Asylum applicants considered to be unaccompanied children by citizenship , age and sex, covering the period of 2011 -2016 ; The list shows the following numbers per year:

MALTA	2008	2009	2010	2011	2012	2013	2014	2015
	20	45	5	25	105	335	55	35

However, there are some discrepancies between findings, for example, according to the 2015 EMN (European Migration Network) study which showed that member states set up systems to register and monitor unaccompanied children, 42 were reported in Malta.

This above concern was also raised by the leaders of the EU and Africa gathered at the EU-Africa Summit on Migration held in Valletta, Malta on the 11-12th November 2015. The EU-Africa Action plan on migration adopted in Valletta foresees a number of actions to prevent children from finding themselves in situations of risk and to ensure that they receive adequate protection.

According to the GRETA report in 2013, research was conducted to assess the presence of persons subjected to human trafficking before their arrival in Malta or those vulnerable to trafficking among undocumented migrants arriving in Malta. The research did not find evidence of a significant number of trafficking victims among migrants at the time of arrival in Malta. By contrast, the research concluded that there was a notable risk of irregular migrants falling victim to THB in the future.

The current National Action Plan is scheduling to research the situation of women and children asylum-seekers in open Reception Centres in Malta.

PULL FACTORS that are reported to be furthering child trafficking to the country.

A number of countries have observed new trends with regard to the profile of victims. Stakeholders from several countries, such as Italy and Malta, see growing numbers of girls from Nigeria as the victims of sexual exploitation. In general, in the Spanish, Italian, Maltese and Austrian governmental reports, an increase is mentioned in the number of unaccompanied asylum-seeking children who are at risk of being trafficked.

The pull factors number some exceptional circumstances, for example, the Syrian civil war and turmoil in the Middle East and parts of Africa are associated with a

strong influx of unaccompanied children migrating to Greece, Italy and Malta. Although these children might not be trafficked to Europe, unregulated status, lack of support structures and lack of financial resources place them at high risk of coming into contact with traffickers.

In 2015, representatives of UNHCR in Malta observed an increase in the number of separated children, mainly from Syria and Libya, and carried out outreach activities in 2016 to get a better sense of the situation of such children considered to be at risk of THB.

GRETA report 2013 notes the existence of a relatively large irregular labour market in Malta, attracting asylum-seekers who have first registered in Italy. Interlocutors met by GRETA pointed out the fact that irregular workers usually get paid, though often not as much as agreed. This irregularity makes the distinction between violations of labour legislation and THB less obvious and in turn, the identification of trafficking victims is more challenging.

GRETA notes that while trafficking for the purpose of organ removal is a distinct crime, it shares similar root causes, such as shortage of organs to meet demand for transplantation; poor economic conditions that put people in a vulnerable position; the pull of payment for donated organs. So far no suspected cases of THB for the purpose of the removal of organs have been encountered in Malta. Health-care professionals receive training on THB, including for the purpose of organ removal.

PUSH FACTORS that are reported to be furthering child trafficking to the country?

A very unfortunate situation to consider is that of children born to refugee mothers while transiting African countries or in International waters and who were not registered in any country before reaching Malta nor are they given Maltese citizenship. In essence, they are Stateless, which creates a risk of them falling victim to THB.

Another situation may arise because of low level of financial support. If victims or potential victims are without financial means, they may, in addition to being provided with free accommodation and food, apply for a small allowance for purchasing food and personal necessities. There is no fixed daily rate for such financial support, but it corresponds to that given to asylum-seekers. Civil society representatives pointed out that the low level of financial support may force trafficking victims to accept any job offer, thereby putting them at risk of exploitation.

The staff of The Employment and Training Corporation, ETC, now called JOBSPLUS have received training about human trafficking. The ETC takes a risk-based approach

and has analysed from what sectors, at what times and among which sociological groups the risk of irregular employment, typically by young immigrants, is highest and allocates its resources accordingly. Such resources are deployed to inspect construction and hospitality services. Particular attention is given to inspecting massage parlours in tourist areas and especially during late hours. On occasion, the ETC makes joint inspections with the Immigration Police. ETC seeks to address three types of offences: (i) employment of irregular migrants; (ii) employment of under-age workers (below 16 years of age); (iii) unemployment benefit fraud.

The NGO Aditus notes in a report on *Unaccompanied Minor Asylum-Seekers in Malta; A Technical Report on Age assessment and guardianship procedures* :

“There is growing concern that a number of minors frequently go missing from the open centres, and the issue is currently under discussion by AWAS and the Children and Young Persons Advisory Board. According to interviewees, most go missing only for a couple of days because they have gone to stay with friends, but some also disappear permanently- most likely because they have left the country. According to some reports, as many as two minors every week go missing permanently from the open centres. According to the current procedure, a staff member at the centre should report the missing minor to the Police and inform the Children and Young Persons Advisory Board, which in turn will inform the MFSS. This situation may be linked to inadequate monitoring of the open centres and lack of individualised follow up with the minors. It also raises concerns of a heightened risk and vulnerability to trafficking or other exploitation of minors” (October 2014).

3. Assistance –Legal and Professional

Children make up a significant proportion of those traveling as part of mixed movements and are often exposed to a wide range of protection risks.

Support services for child victims of trafficking are similar to those granted to unaccompanied asylum-seeking children and under the provisions of the Children and Young Person (Care Orders) Act are given the protection of minors who are seen to be in need of care and protection. (Article 4 , Chapter 285). That is because instead of treating each category or form of risk for children separately (e.g. child trafficking or separation from family members), an effective child protection system considers all the risks faced by children in a holistic and comprehensive manner - laws, policies, structures, procedures and practices - that are designed to respond to the specific needs of children and prevent child abuse, neglect, exploitation and violence.

The Summary Report of the conference held April 27th-May 1st 2014, “Unaccompanied Migrant and Refugee Children. Alternative to Detention in Malta.

IOM-UNHCR Joint Technical Mission ” states that during the discussions several NGO representatives and Ministerial departments stressed the need for additional human resources (especially in emergency) and the need to train personnel on how to handle the reception and care of unaccompanied migrant and refugee children. Of particular concern was the challenging situation of children showing signs of post-traumatic stress and who are in need of specialised attention and care. It is noted that many of these children had fled situations of war and violence. In addition, it was pointed out that there is an urgent need to support the skills and work of the cultural mediators, in order to be able to address challenges related to establishing trust and effective communication with children from different cultural backgrounds and with different languages (Somalia, Eritrea, Mali, and other places). Moreover, trained cultural mediators can support the work of health professionals by facilitating access to medical care and mental health services for unaccompanied migrant and refugee children.

In Malta, there is a specific Reception Centre for families and unaccompanied minors (Dar il Liedna, Dar is-Sliema and HFO) but there are no other facilities equipped to accommodate applicants with other special reception needs.

GRETA 2016 notes the following immediate actions that need to be taken by the Maltese authorities:

- take measures to ensure that the procedure for the identification and referral to assistance of child victims of THB takes into account the special needs and circumstances of children, through developing a specific referral mechanism for children involving child specialists, child protection services and specially trained police officers and prosecutors;
- ensure that child victims of THB benefit from the assistance measures provided for under the Convention, including appropriate accommodation and access to psychological support and legal assistance;
- step up their efforts to increase the training of relevant officials and staff on the identification of child victims of trafficking (paragraph 102).

Since the publication of GRETA’s first evaluation report in November 2012 as regards the implementation by Malta of the [Council of Europe Convention on Action against Trafficking in Human Beings](#), a number of the recommendations made in that report have been implemented. These include:

- National Referral Mechanism defining the roles and responsibilities of different agencies in identifying and assisting victims of trafficking;

-
- the increased attention paid to combating human trafficking for the purpose of labour exploitation;
 - the new Victims of Crime Act providing access of victims of trafficking to assistance and compensation.

GRETA has emphasised to the Maltese authorities to ensure that the procedure for the identification and referral for assistance of child victims takes into account their special needs, including psychological support and training of staff. The offence committed against a child, regardless of the means used, should be introduced as an aggravating circumstance which has also been introduced.

According to AIDA (Asylum Information Database February 2017), AWAS is responsible for implementing government policy regarding persons with special reception needs and is in charge of these assessments. When someone will be deemed to be vulnerable, he or she will not be detained and will immediately be accommodated in open centres or a chosen centre for unaccompanied minors.

Specific measures provided by law for vulnerable persons are as follows: maintenance of family unity where possible; particular, yet undefined, attention to ensure that material reception conditions are such to ensure an adequate standard of living.

Families and unaccompanied minors are generally accommodated in a dedicated Reception centre where they receive appropriate and adequate support. The centre has an official capacity of 30 and is staffed by care workers from AWAS with three members on each shift. There are 8 centres, two are run by NGOs but fall under AWAS.

All other vulnerable individuals are treated on a case-by-case basis by AWAS social workers, with the view to providing the required care and support.

Despite all of the above, due to resource and infrastructural limitations, some vulnerable individuals are either never identified or, once identified, are unable to access the care and support they require. The main concern remains that the new system is exclusively tailored for migrants arriving irregularly. For asylum-seekers arriving regularly, the situation is unclear as to whether they will have access to this vulnerability assessment. It is also unclear whether all persons at the IRC (Initial Reception Centre) will undergo vulnerability screening, or simply those persons who are visibly vulnerable.

Since NGO access to the IRC is not permitted, there is concern at the lack of referral possibilities. Also, it is not clear how vulnerability assessment will take place after release from the IRC, at later stages. With regard to ongoing monitoring, whilst no

formal monitoring system exists within detention, vulnerable individuals may be referred to AWAS at any point of their stay. Within open centres, no formal monitoring mechanism is established.

The Government Agency called 'Appogg.'

The Agency Appogg, is the main institution responsible for child protection. It is part of the Foundation for Social Welfare Services within the Ministry for Justice, Dialogue and Family. Regardless of the origin or vulnerability of the child, it is responsible for providing assistance to victims of trafficking from their identification through to their recovery. In particular, safe and suitable temporary accommodation must be provided to all victims of trafficking with services adapted to their needs, gender and age.

The Agency Appogg, operates an emergency shelter primarily aimed at catering for female victims of domestic violence, but also accommodating female victims of THB. Various services are provided by the Agency Appogg. As it is responsible for supporting persons in need of counselling and social assistance, its psychological and family therapy services or those of partner NGOs are available if the child victim requires counselling. It can arrange victims' access to health care in public hospitals or with private general practitioners. Appogg may also delegate to NGOs the provision of certain services, such as psychological support. Appogg also assists victims of trafficking with finding employment when they are in possession of a residence permit (allowing them to work) (Minimum age for employment is 16 years and a child is defined as "any young person, of either sex, who is under sixteen years of age, or any other age which may from time to time be established as the school-leaving age by virtue of the Education Act." However a child under 16 years of age may not be employed unless special permission has been granted in terms of the provisions of the Education Act. Such permission/authorisation may be granted for engagement in cultural, artistic, sports or advertising activities.)

Based on reports from Appogg and after an age verification where necessary, the Ministry for Family and Social Solidarity issues a care order which is aimed at ensuring the protection of the child and that his or her individual needs are met. An individual care plan is drawn up following the care order, covering aspects such as tracing the child's family, health and education needs, secure environment and counselling. The Minister for Family and Social Solidarity is appointed as the child's legal guardian and a social worker from the Agency for the Welfare of Asylum Seekers (AWAS) who has undergone training in THB is appointed for each child as an immediate support person.

Provision of trained Interpreters for the child at all points of interaction with the State?

According to AIDA, (Asylum Information Database), Country Malta 2016 , the presence of an interpreter during the personal interview is required according to national legislation (Regulations 4(2) © and 5 (3) Procedural Regulation.

According to the report by Aditus, October 2014 *Unaccompanied Minor Asylum-Seekers in Malta, A Technical Report on Age assessment and guardianship procedures*, “Interpreters are typically hired by the hour and are often themselves members of the refugee/migrant communities. AWAS has a pool of Somali interpreters (which represent the largest percentage of new arrivals), but in the past has faced trouble finding interpreters for languages that include areas in West Africa. People being interviewed are always asked for consent before use of an interpreter. Female interpreters are not always available, and there have been cases where no interpreter is available. Maintaining a consistent pool of available interpreters is complicated, because refugee arrivals are infrequent and services may be in high demand in certain months, but not in others. Further, interpreters have received no training on asylum procedures or the special needs and vulnerabilities of children.”

Aditus continues “...The availability of an interpreter is critical to ensuring a minor’s right to actively participate in the procedure and to express his/her views freely. Aditus stresses the critical importance of ensuring an interpreter is available, and that interpreters shall continue to have appropriate training on the procedure and minor-specific issues. As far as possible, minors must also have access to an interpreter of the same gender, if preferred.”

Unaccompanied asylum-seekers who declare they under 18 upon arrival are referred to AWAS for age assessment. According to the new policy, irregular child migrants are treated immediately without recourse to any age assessment procedures. Age assessment shall be undertaken in all other cases. The first age assessment phase consists of an interview conducted jointly by an AWAS staff member and a transcultural counsellor. For persons under the age of 14, AWAS begins this first phase on the day immediately following their arrival. For other claims, AWAS begins two working days later and this phase must be completed by the sixth working day.

Under the new procedure, there is no obligation to take into consideration any documentation provided by the person. At the end of the first phase, if the panel determines that the person is a minor, a Care Order is issued and the minor is transferred to an open Reception Centre where the asylum procedure resumes. If

the assessment is not conclusive at the end of the first phase, the person is referred for further age assessment.

This second phase consists of a more-in-depth interview with a team of three transcultural counsellors. This interview must be completed by the eighth working day after referral. Following the interview, the panel submits its recommendations, which are then presented to a Chairperson.

The last phase consists of the decision taken by the Chairperson. This determination must come by the tenth working day after referral. If the person is found to be a minor, a Care Order is issued, the minor is transferred to an open centre where the asylum procedure resumes. Under the new procedure, a Social Report is prepared by AWAS including the findings and the outcome of the assessment, this document is shared with the Department of Social Welfare Standards then send to the Ministry for the Family and Social Solidarity.

At the end of the third phase, if the assessment is still not conclusive, the Chairperson can either refer the person for a second age assessment or for a bone density test, conducted by the Ministry of Health. The Age Assessment Procedure has been improved but is still plagued by a lack of adequate procedural guarantees, including lack of information about the procedure and the possibility of appeal.

Malta introduced special procedural guarantees for vulnerable people. According to the law, the Refugee Commissioner shall assess such applications within a reasonable period of time and ensure that such applicants are provided with adequate support throughout the whole procedure. Moreover, the accelerated procedure shall not be applied in case it is considered that an applicant requires special procedural guarantees as a consequence of having suffered torture, rape or other serious form of psychological, physical or sexual violence.

Special guarantees are also foreseen for unaccompanied minors. They shall be provided with legal and procedural information free of charge on their application for international protection, and the interview is to be conducted and the decision prepared by a person who has the necessary knowledge of the special needs of minors.

The Refugees Act provides that unaccompanied children may only be subject to the accelerated procedure where: (a) they come from a safe country of origin; (b) have introduced an admissible subsequent application; (c) present a danger to national security or public order or have been forcibly expelled for public security or public order reasons.

Regarding asylum seekers, identified as being in need of special procedural guarantees, a trained Caseworker is assigned to do the interview, during which the Caseworker remains sensitive to the fact that the person might be unable to fully disclose details of the asylum claim. However the asylum seeker will still be expected to provide a considerable amount of detail that they might not always be able to provide an account of the trauma they have experienced. In the absence of a procedure geared towards identifying victims of trauma and torture, and the emphasis on concluding cases in the shortest time possible, these asylum seekers may be at a disadvantage as they may be unable to disclose comprehensively the protection they need.

Interpreters are available for Somalis, Eritreans, Syrians or Libyans, that constitute the main nationalities of asylum-seekers in Malta. However, interpreters for other languages are not always readily available. Translators might be people living in Malta as they come from the same countries as the victims . They are called by Appogg, together with the help of NGOs and JRS.

In line with the Third National Action Plan (2015-2016), a brochure containing information about labour conditions and wages in Malta was published in English, Chinese, Arabic, Russian and Filipino languages. It explains the risks of THB for labour exploitation and provides phone numbers of Institutions which can be contacted for help in case of exploitation. The brochure is distributed by Maltese Consular representatives to foreigners who plan to work in Malta.

Is information available to the child at point of entry, to the risks of being trafficked as an unaccompanied or accompanied minor – in the languages of the key identified groups at risk (question to Immigration / border Police / Stakeholding NGOs?)

Regarding this question, Border guards are trained both locally and abroad in order to identify possible victims of trafficking. This training incorporates possible identification of perpetrators and best practices in gathering first line information. Maltese border guards participated in Project Vega Children organized by Frontex and actively contributed to the resulting handbook .

According to AIDA, with regard to vulnerable applicants, including minors and alleged unaccompanied minors, the amended legislation along with the new policy prohibits their detention. Reception Regulations state that, “whenever the vulnerability of an applicant is ascertained, no detention order shall be issued or, if such an order has already been issued, it shall be revoked with immediate effect.”

Upon arrival at the border, alleged unaccompanied minors, family groups with children and other manifestly vulnerable persons are prioritised during the

preliminary screening. When an asylum-seeker is deemed vulnerable, following a vulnerability assessment conducted during their stay at the IRC, he or she will not be detained and will be accommodated immediately in a Reception Centre and assisted according to his or her vulnerability. Minors will have access to leisure and open-air activities.

According to the Regulations, whenever the vulnerability becomes apparent at a later stage, assistance and support is provided from that point onwards. In practice, asylum-seekers entering Malta irregularly by plane are immediately detained and not sent through the IRC, with the possibility of any vulnerability not being identified.

In its first report, GRETA (2013) urged the Maltese authorities to ensure that all victims and potential victims of trafficking are informed of the possibility to benefit from a recovery and reflection period and its implications and are effectively granted such a period. GRETA stated that the need to co-operate with the authorities as a pre-condition for being granted a recovery and reflection period should be removed, and that a minimum duration of 30 days should be established for the recovery and reflection period, during which time the victim or potential victim cannot be removed from the country's territory. According to GRETA, no termination of the recovery and reflection period should be carried out on the grounds that victims have "actively, voluntarily and on their own initiative renewed contact with the perpetrators" without due regard to the person's individual situation, which involves an examination of his/her case. During the period of reflection, while due regard is given to his/her safety and protection needs, the third-country national who does not have sufficient resources shall be provided with:

- (i) standards of living capable of ensuring his/her subsistence;
- (ii) access to emergency medical care and, where applicable:
- (iii) attention to the needs of the most vulnerable;
- (iv) psychological assistance;
- (v) translation and interpreting services;
- (vi) free legal aid.

In case the third-country national is a minor, he/she shall have access to the public education system under the same conditions as Maltese nationals.

According to AIDA, at the beginning of their stay at the IRC, individuals are informed of their right to apply for International protection by the Office of the Refugee Commissioner. UNHCR Malta also visits applicants at the IRC to provide information. AWAS provides information about the reception conditions available.

In the detention centres, all persons are within days provided with the document entitled “Your Entitlements, Responsibilities and Obligations while in Detention,” a publication of the former Ministry for Justice and Home Affairs. The document provides information, albeit in a basic format, on: Dublin procedures; asylum procedure; the Immigration Appeals Board; daily material reception condition rights (e.g. catering, clothing, correspondence, hygiene, etc.) and various responsibilities and obligations e.g. information disclosure, discipline, personal hygiene, medical self-care, etc.

The information contained in the booklet is not deemed to be adequate or sufficient due to the limited quantity of information actually provided, the languages in which it is available (English, French and Arabic), the language style and the generality of the issues presented. In Open Centres, within days of their placement residents are provided with detailed information on their rights and obligations, covering issues such as maintenance, registrations, financial allowance, and so forth.

OTHER PROVISIONS to guarantee that child victims of trafficking are being cared for by adequately trained professionals (e.g. social, educational, procedural, safe accommodation)?

Malta answers the GRETA 2015 questionnaire, by stating that training has been provided to professionals from all entities involved in HT issues.

Training about THB and the rights of victims is given priority. Professionals, judges and prosecutors, the Agency Appogg’s Child Protection and Community Services staff and residential shelter staff, the Labour Inspectors of the Employment and Training Corporation and of the Department for Industrial and Employment Relations have all undergone training. Training has been given by experts of IOM, the NGO KOPIN, and professionals have also attended training sessions at The Hague. The Ministry of Health provides training and raises awareness among health professionals as regards THB, including trafficking for the purpose of organ removal, groups at risk of trafficking and the use of trafficking indicators. Training was organised and funded by the Ministry for Home Affairs and National Security in cooperation with the Anti-Human Trafficking Monitoring Committee, made up of high ranking officials from relevant Ministries.

Cases of child trafficking are addressed by the same entities responding to HT issues. Officials working with children are sensitive in child related issues as well as professionally and academically trained.

With a view to ensuring the provision of adequate victim support, a Memorandum of Understanding was signed between the Malta Police Force and the Ministry responsible for Social Policy. The MOU is complemented by the services provided by Appoġġ, the Government Agency responsible for providing and coordinating social support services to potential victims of human trafficking. Victims of human trafficking may use the 179 helpline run by Appoġġ to receive assistance and support.

(As an example of how services are provided, in one case of trafficking discovered by an NGO, the Vice Squad provided the persons with interpreters and formally identified them as victims of THB. The Police requested assistance from the Agency Appoġġ and the Jesuit Refugee Service. Appoġġ provided them with emergency shelter, clothing and culturally appropriate food, linked up with medical services for the provision of medical assessments and treatment and liaised with the Immigration Police and Visa Department in view of having residence permits issued, as well as with the Employment and Training Corporation regarding the possibility of new employment. The Jesuit Refugee Service provided support and legal advice to the victims during interviews by the Police and the subsequent court hearings).

Are there PROFESSIONALS TRAINED to be aware of a) the special needs of the child? b) the rights of the child? c) gender / ethnic issues?

The GRETA Report (2017) urged the Maltese authorities to ensure that the system for providing assistance to child victims of trafficking is specifically tailored to their needs.

Only one child was detected as a presumed victim of THB during the period 2012-2015. She was assisted by Appoġġ and was granted asylum on the grounds of membership of a particular social group. There is no place dedicated specifically to accommodating child victims of trafficking in Malta, neither are there any specific programmes for the rehabilitation and re(integration) of child victims of trafficking.

In their training, professionals are taught to be aware of what a trafficked child undergoes. In some situations victims might be afraid to cooperate in the investigation because of threats from traffickers. Granting a residence permit on account of the personal circumstances of the victim takes in a range of situations, such as the victim's safety, state of health and family situation, and tallies with the human-rights based approach to combating HT. GRETA states increased emphasis

should be placed on education aimed at eradicating gender-based violence and the stigmatisation of victims of trafficking.

However according to GRETA Report 2016 immediate measures still need to be taken as envisaged above in Question no 6.9.

Measures taken to ensure appropriate assistance for the family of a child victim of trafficking? (e.g. the right to receive information about possibilities of support, protection, legal advice, legal aid, outcome of action taken on behalf of the child).

According to Aida, “ As soon as the application for family reunification has been accepted, family members will be authorised to enter Malta and every facility for obtaining the required visas will be given to them.” In practice, problems issuing documentation may arise in countries with no Maltese embassy. The Family Reunification Regulations provide that family members shall be granted a first residence permit of at least 1 year’s duration which shall be renewable. In the past, the reuniting family members were given a one year residence document indicating ‘dependant family member – refugee,’ causing difficulties when public service providers (e.g. hospitals) failed to recognise the holder’s entitlements as being equal to those of his or her refugee sponsor. Policy has recently changed and reunited family members are now granted a residence permit of 3 years, with the mention ‘Dependant family member.’ (Family Reunification Regulations, LN 150 of 2007, Immigration Act Cap 217, 2007, available at: <http://bit.ly/2kC9tiH>. 146 Regulation 3 Family Reunification Regulations 147 Regulation 12 Family Reunification Regulations 148 Information provided by Mr Ryan Spagnol, Director of Identity Malta, 29 September 2016).

The family members of the sponsor have access to education, employment and self-employed activity in the same way as the sponsor. While a refugee has access to employment and self-employment without the need for an assessment of the situation of the labour market, family members are subject to such assessment the first 12 months following their arrival. They also have access to vocational guidance, initial and further training and retraining.

The GRETA report (2017) notes that victims of trafficking in Malta are not always informed of their rights to compensation and ways to access it. GRETA advised the Maltese authorities to ensure that victims have effective access to legal aid in this respect. Greta also advised the Maltese authorities to amend the Criminal Injuries Compensation Regulations (S.L. 9.12), so that all victims of trafficking have access to State compensation, without needing to have sustained grievous bodily harm as a result of trafficking in human beings.

The 2013-2014 National Action Plan against Human Trafficking focused on the need of assistance and support to victims of Human Trafficking.

The Standard Operating Procedures (SOP) of the NRM adopted by the Anti-Human Trafficking Monitoring Committee in 2013 and published by the Ministry of Home Affairs and National Security in 2014 provide detailed information on the steps to be taken at the following stages: 1) identification; 2) follow-up and provision of initial support to victims; 3) police formal identification interview; 4) provision of formal information to victims; 5) needs assessment; 6) issuance of residence permits; and 7) assisted voluntary return.

One notes that the European Council Directive 2004/81/EC, has stipulated that trafficked minors have access to the system of reflection period and residence permit where they cooperate with the authorities in the fight against trafficking. The law establishes a period of two months as a reflection period, while it provides a residence permit for a term of six months which is usually accompanied by a work permit.

The only form of specific social inclusion that is mentioned by law is that minors will be placed within the mainstream educational system, have access to health and medical services information and family is contacted and informed .

Other provisions on Guardianship in the country?

Information on the Legal Guardian.

Legal representation of unaccompanied children is granted. Indicators, as researched by Aida, provide Procedural Regulations. These stipulate that as soon as possible and no later than 30 days unaccompanied minors shall be assisted by a representative during all the phases of the asylum procedure.

The assigned Legal Guardian is an AWAS staff member, usually a social worker, and the Regulations provide that he/she shall have the necessary knowledge of the special needs of children. The Legal Guardian shall inform the unaccompanied child of the meaning and consequences of the personal interview and prepare the child for the interview. Moreover, the representative attends the status determination interview and may ask questions during the procedure. In practice, although the legal guardian does attend the interview together with the child, information and advice regarding the asylum procedure is provided by NGOs upon referral by the children's guardians. The above procedure is not enshrined in any law, and no formalities exist to ensure compliance.

Legal Guardians are generally the social workers engaged by AWAS. They are not independent from public authorities and in most cases are responsible for a large number of children, due to resource constraints. NGOs expressed the need for additional human resources and the necessity to train staff about the specific needs of children from different cultural backgrounds regarding reception and care. The situation is of particular concern regarding traumatised children who have fled situations of war and violence.

Support services for child victims of trafficking are similar to those granted to unaccompanied asylum-seeking children. The Agency Appoġġ is the main Institution responsible for child protection, regardless of the origin or vulnerability of the child. Based on reports from Appoġġ and after an age verification where necessary, the Ministry for Family and Social Solidarity issues a Care Order which is aimed at ensuring the protection of the child to ensure the child's individual needs are met. An individual care plan is drawn covering aspects such as tracing the child's family, attending to health and education needs, providing a secure environment and counselling. Appoġġ uses its psychological and family therapy services or those of partner NGOs if the child victim requires counselling. The Minister for Family and Social Solidarity is appointed as the child's Legal

Guardian and a Social Worker from the Agency for the Welfare of Asylum Seekers (AWAS) who has undergone training in THB is appointed for each child as an immediate support person.

Repatriation Data.

The IOM-UNHCR report (2014) on *Reception of Unaccompanied Minors and Refugee Children in Malta* recommends the establishment of a primary reception centre for minors to address the need for early identification, assessment, family tracing, family reunification and care of unaccompanied children. When appropriate, counselling for assisted voluntary repatriation could contribute to the child's best interest assessment and determination processes.

Other recommendations include the possibility of IOM assisting the government in carrying out family-tracing initiatives and family assessments for family reunification purposes. IOM and UNHCR, with selected NGOs, become part of a permanent Maltese Inter-Ministerial task force designed to address gaps in migration management and provide authorities with current information from the migrants' country of origin.

It is worth looking at comments in the article “ *Destination Unknown. Protect Children on the Move* ” (1st march 2017) by [Kopin](#), the [Swiss Foundation of International Social Services](#), [Terre des Hommes](#) – together with other NGOs present at the [Lost in Migration](#) conference, organised by ‘[Missing Children Europe](#),’ where EU Member States are urged to offer [durable solutions](#) to refugee children. These solutions must put the child first, take the child’s voices into consideration and seek to reunite unaccompanied children with their families or other caregivers whenever it is possible.

UNHCR Malta has created an ‘Initial Reception Centre’ where children’s stay is limited up to seven days for health screening and to make age assessments. The authors claim that the centre is now housing both families and unaccompanied minors.

It is worth emphasising that the article here is referring to the concern that the IRC for Minors and Families holds unaccompanied children together with adults accompanying other children. “ We feel this could potentially expose unaccompanied minors to risk This information was verified by UNHCR.”

UNCHR’s position in its guidelines on the Applicable Criteria and Standards relating to Detention of Asylum Seekers and Alternatives to Detention, is that children should not be detained for immigration-related purposes, irrespective of legal/migratory status or that of their parents. Detention is never in the best interests of a child.

Every unaccompanied or separated child is asked whether he or she is in touch with family. If the answer is negative, an assessment is made whether it is in the child’s best interest to begin the process of tracing family. For asylum-seeking children a return to the country of origin is usually not an option. Should it be deemed to be in the best interests of the child to be reunited with his or her family in the country of origin, then discussions between AWAS, UNHCR and IOM are pursued with the aim of organising a voluntary return.

Regarding protection on the occasion of a rejected asylum-seeker who took his life because of hopelessness, a joint press release by NGOs urged the government to create clear legal pathways to regularisation to rejected asylum-seekers who have not been returned in spite of the fact that they co-operated with legitimate attempts to deport them.

These NGOs are :Aditus foundation, the Critical Institute, Foundation for Shelter and Support to Migrants, Integra Foundation, International Association for Refugees, Jesuit Refugee Service (Malta), Migrant Women Association Malta, Migrants Network for Equality, Organization for Friendship in Diversity, Peace and Good

Foundation, People for Change Foundation, Solidarity with Migrants Network, SOS Malta, Spark 15.

The Ministry for Education and Culture, Youth and Sports published a multi-annual programme (MAP) of the European Fund for the Integration of TCNs (Third Country Nationals) for the period 2007-2013, thus partly addressing the lack of a comprehensive National Integration Policy with coordination mechanisms that would cater for TCNs, in the spirit of the Common Basic Principles on integration.

The road towards a National Integration Policy has been a long one. In addition to the MAP, several stakeholders have highlighted the urgent need of developing a formal policy on the integration of immigrants, given the increasing numbers of regular and irregular TCNs and the lost opportunities that arose as a result of that gap.

Family reunion and long-term residence were two of the best performing policy areas (both around 65%) while the other 4 (anti-discrimination 38%, labour market access 30%, access to nationality 29%, and political participation 19%) performed less spectacularly. EU citizens were more than double the legally resident TCNs.

Since 2013, the Ministry for Social Dialogue, Civil Liberties and Consumer Affairs is responsible for the integration of migrants. It has worked with key stakeholders on the first National Migrant Integration Strategy 2015-2020, (most notably Aditus Foundation, Foundation for Shelter and Support to Migrants, Integra Foundation, Jesuit Refugee Service, Kopin, Organization for Friendship in Diversity, People for Change Foundation, and SOS Malta, among others). Clearly, MIPEX has been an important reference point for the drafting of this strategy.

LEGAL PROVISIONS to guarantee that a RISK ASSESSMENT is made prior to repatriation in order to establish whether or not this is safe?

In the Article *Differentiated Processes and Procedures Chapter 6*, emphasis is made on coordination and referral mechanisms between the child-protection system and asylum procedures that are important to ensure that the international protection needs of children are recognised and met. (See also Child Repatriation in Chapter 9).

In its first report, GRETA (2013) urged the Maltese authorities to develop the institutional and procedural framework for the repatriation and return of victims of trafficking, with due regard for their rights, safety and dignity. This implies protection from re-victimisation and re-trafficking and, in the case of children, full respect for the principle of the best interests of the child. Particular attention should be paid to ensuring financial means for the travel of victims.

Appogg works with International Organization of Migration (IOM) and Interpol through the police as well as with International Social Services (if there are representatives in the country of origin of the victim), to ensure that voluntary return is safe and dignified and observant of the victim's rights. Appogg provides a risk assessment form based on the U.K. model.

OTHER PROVISIONS (social, procedural, educational, psychological, safety) to guarantee that a RISK ASSESSMENT is made prior to repatriation in order to establish whether or not this is safe?

Maltese Law S.L. 420.07 Procedural Standards Regulations 2014, Regulation 15A:states:

“(3) If an unaccompanied minor is granted international protection, the authority responsible for the provision of services to unaccompanied minors, with the assistance of international organisations as necessary, shall proceed with the tracing of the family members of the minor, provided that this is in the best interests of the minor:-provided that in cases where there may be a threat to the life or integrity of the minor himself or his close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning these persons is undertaken on a confidential basis.”

Aditus Foundation and JRS Malta in *Refugees (AMENDMENTS) Act 2014*- comments on the exercise transposing the EU Recast qualification by Aditus foundation and make the following recommendations:

Although the provisions of Article 31(1) – (4) remain unchanged, Article 13(3) of the Refugees Act and Article 15A can be improved:

- Reference to Legal Guardian after the asylum process is concluded;
- The duty of the Legal Guardian to ensure that the minor's rights are respected in relation to those guaranteed under the QD (health, education, etc.);
- Regular assessment of the legal guardian's actions;
- Link to the draft law on child protection.
- To add under 15A: “Those working with unaccompanied minors shall have had and continue to receive appropriate training concerning their needs.”

There have been very few returns of victims of trafficking from Malta in recent years. The procedures for voluntary return of victims are laid down in the Standard Operating Procedures of the NRM, including steps to ensure that the return is safe and assistance to be provided. The Agency Appogg co-operates with IOM and the

International Social Services to ensure that victims' voluntary return is safe and dignified.

WHO is responsible for the risk assessment in the country of destination?

GRETA was informed that Appogg would usually carry out a risk assessment prior to return, though sometimes this was not done because the victim is keen to return home without delay. There is a risk assessment template in the booklet *"Support Tools for Service Providers on Trafficking in Human Beings and SOP's on Identification and Referral of (potential) Victims of Trafficking"* which was published in collaboration between the Ministry of Home Affairs and National Security and IOM (see paragraph 75). Apart from Appogg, other actors, such as IOM, the Jesuit Refugee Service and UNHCR may also carry out risk assessments prior to return.

According to Malta's answer to the GRETA 2015 questionnaire which asked,

"What programmes and services exist in your country for the (re) integration of child victims of trafficking?" and "What solutions are provided if the reintegration of the child into his /her family is not in the child's best interests?" (AWAS would be the entity involved) The answer was that "No specific programmes/services for the (re) integration of child victims of trafficking exist .

Victim Assistance.

OTHER PROVISIONS in the country of origin to ensure that (repatriated) child victims of trafficking receive long-term care and protection (e.g. social integration, Safe accommodation, Security, Food, access to Education, Health Care, Psycho-social support, Legal assistance, Social services etc.

Article 10 of the Return Directive of the EU Policy on Unaccompanied Minors

- Before deciding to issue a return decision in respect of an unaccompanied minor, assistance by appropriate bodies other than the authorities enforcing return shall be granted with due consideration given to the best interest of the child;
- Before removing an unaccompanied minor from its territory, the authorities of the Member State shall be satisfied that he/she will be returned to a member of his/her family, a nominated guardian or adequate reception facilities in the state of return.

Responsibility for conducting the needs assessment.

In its first report (2013), GRETA urged the Maltese authorities to develop the Institutional and Procedural framework for the repatriation and return of victims of trafficking, with due regard for their rights, safety and dignity. This framework implies protection from re-victimisation and re-trafficking and, in the case of children, full respect for the principle of the best interests of the child.

Particular attention should be paid to ensuring financial means for the travel of victims of trafficking. Persons residing in Malta irregularly are issued with a return decision obliging them to leave the country. They may be detained for up to six months, a period which may be extended by a further 12 months in accordance with S.L. 217.12. 131. There have been very few returns of victims of trafficking from Malta in recent years. The procedures for voluntary return of victims are laid down in the Standard Operating Procedures of the NRM, including steps to ensure that the return is safe and assistance is provided.

The Agency Appoġġ co-operates with IOM and the International Social Services to ensure that victims' voluntary return is safe and dignified. GRETA was informed that Appoġġ would carry out a risk assessment prior to return, though sometimes this was not been done because the victim was keen to return home without delay. There is a risk assessment template in the booklet "Support Tools for Service Providers on Trafficking in Human Beings and SOPs on Identification and Referral of (potential) Victims of Trafficking" which was published in collaboration between the Ministry of Home Affairs and National Security and IOM (see paragraph 75). Apart from Appoġġ, other actors, such as IOM, the Jesuit Refugee Service and UNHCR may also carry out risk assessments prior to return. GRETA (date?) considers that the Maltese authorities should continue to take steps to ensure that the return of victims of THB is preferably voluntary, and is conducted with due regard to rights, safety and dignity, including the right to non-refoulment (Article 40(4) of the Convention)³² and, in the case of children, by fully respecting the principle of the best interests of the child.

The need is to adopt a clear framework for the return of victims of trafficking, with due regard to their rights, safety and dignity, and in cooperation with the countries of origin of victims to ensure proper risk assessment and avoid re-trafficking.

The 3rd National Action Plan envisages forthcoming refresher training events on the use of Standard Operating Procedures. The International Organisation for Migration (IOM) assists in the utilisation of the Assisted Voluntary Return (AVR) scheme if and when a potential/victim of THB wishes to take up such an opportunity.

According to the report submitted by the Maltese authorities on measures taken to comply with the Committee of the Parties 2015 , GRETA considers that the Maltese

authorities should continue to explore further possibilities for international cooperation to investigate and prosecute trafficking cases, as well as develop international cooperation to protect and assist victims of trafficking, in particular with countries of origin of the victims. The Maltese authorities state that they will continue cooperating with authorities of other States as necessary.

LEGAL PROVISIONS to ensure each child has a LEGAL GUARDIAN

In this context, GRETA consistently reminds us that the United Nations Committee on the Rights of the Child in its General Comment No. 6, paragraph 21 (2005), calls for a competent guardian to be appointed both in cases of unaccompanied and separated children.

According to JRS Malta and *Aditus* Foundation, legal guardianship for unaccompanied or separated children require that entities or individuals tasked with the legal guardianship of unaccompanied or separated children be suitably trained and specialised, in order to secure the most appropriate decisions for children with different needs, such as refugee children, children with disabilities. The highly technical issues related to migrant children stress the importance of a professional approach, particularly in view of issues such as: child-related persecution, child soldiers, FGM (female genital mutilation), or culture sensitivity.

The Legal Guardianship of an unaccompanied or separated migrant child should be an individual relationship as far as possible. The Guardian's role should extend also to offering support to the child in the Asylum procedure so as to ensure the full effectiveness and determination of the refugee status process.

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Jesuit Refugee Service (Malta), SAC Sports Complex, 50, Triq Ix-Xorrox, Birkirkara, Malta. Telephone: +356 2144 2751, E-mail: info@jrsmalta.org

LEGAL PROVISIONS to ensure that the life situation of a child following his/her reunification or placement in alternative care is MONITORED

According to the European Migration Network, *Unaccompanied Minors in Malta 2009*, in line with various International and European studies, the Government of Malta agrees that assisted voluntary return (AVR) is by far the preferred return practice, both for Malta and for returnees, particularly if AVR includes re-integration support in the country of return (EC 2007 & Borg 2008). It is considered as not only a more dignified way for the migrant to return, but also cost-effective and more sustainable than forced return (EC 2007). This was even supported by the authors'

interviews with Local Authorities, International Organizations and NGOs. AVR experiences in Malta is being appraised at all levels - international, national and individual immigrants' level (Borg 2009). Immigrants are being offered cash-grants and pre-return training prior to leaving Malta. The Government of Malta has established communication with the Embassies of Ghana, Sudan and Nigeria in order to cooperate in the identification of returnees and the issue of travel documents. AVR in Malta is made possible by means of many stakeholders including IOM, SOS Malta and Med-Europe, the Ministry for Justice and Home Affairs, the Police, the Armed Forces, the Malta Foreign Affairs' agency for migrant integration, OIWAS, Suret il-Bniedem, the Emigrants' Commission, the Refugee Commissioner and the Employment and Training Corporation. The Assisted Voluntary Return (AVR) programme in Malta is primarily offered to adult immigrants. However, whilst conducting interviews with stakeholders, the authors were told that AVR can be offered to unaccompanied minors. By means of International contacts, various International Organisations assure that unaccompanied minors are entrusted to reliable social care authorities and assisted to integrate in the country of destination. When possible, the unaccompanied minors' family is contacted and consulted, thus establishing the best interests of the child. Assessment is meticulous, and the support of the country's authorities is sought where there is doubt on the genuineness and reliability of the person from abroad who is showing an interest in the migrant. All these stringent measures make unaccompanied minors' AVR complex, thus limiting return, particularly to countries where administrative capacity is limited. Nevertheless, it is satisfying to note that local authorities and organisations are aware of these rigorous international and national laws and guidelines in order to safeguard the best interest of the child.

The analysis of UM (Unaccompanied Minors) demographic data in Malta reveals that more than 60% of unaccompanied minors are from Somali. Although the authors' interviews recognised Somalis among the first AVR beneficiaries in Malta, it is becoming more difficult to assist the voluntary return of Somalis. A European Commission (2007) report on 'Voluntary and forced return migration policies and practices' in 11 EU countries (Austria, Belgium, Estonia, Germany, Greece, Ireland, Italy, Latvia, Sweden, The Netherlands and UK ,excluding Malta), shows that Somalia is one of the main countries of origin for asylum seekers in Malta, similar to the other EU countries. In an overview of these countries' return practices (not including Dublin II transfers), no Somalis were either forcibly or voluntarily returned home. Somalia's lack of central administrative competencies makes it difficult for adults immigrants to be assisted in Somalia. According to the UK Northern Refugee Centre (2009), IOM UK - responsible for AVR in UK - is formally informing Somali AVR applicants that their voluntary departure applications are being blocked.

The reasons are multifaceted, but the main two logistical problems between IOM and Somali authorities are presumably documentation and acceptance.

Keeping in mind the common countries of origin it is no surprise that according to interviews with stakeholders, no unaccompanied child had ever benefited from an AVR programme in Malta. Apart from problems originating from countries of origin, the specific needs and situation of the unaccompanied children as separated persons are hindering factors to their life project in their own country. They would prefer to resettle in another country, possibly with relatives, in indicated by the quote from a Nigerian unaccompanied child:

"I know about the AVR programmes; however I will never go back to Nigeria."

(No reasons for answer given, though facial expressions indicated negative experience in country of origin)

Government Policies and Action Plans for Prevention.

According to Malta in Country Profiles: 30 country profiles reflecting the state and diversity of the humanitarian sector in Europe, the NGOs in the Refugee sector engage in informal multi-stakeholders dialogue with the Government and all interested parties.

One local NGO is represented on the Anti Human Trafficking Monitoring Committee, the mechanism which acts as the National Monitoring and Implementing Body as prescribed by the Directive 2011/36 EU. Two local NGOs are members of the Stakeholders Task Force on Human Trafficking. When training is organised for stakeholders officials and professionals from NGOs attend. The two structures mentioned above are involved in the decision making regarding the content of the National Strategy for action against human trafficking.

A National Referral Mechanism (NRM) has been in use in Malta since 2013, following its formal adoption by the Anti-Human Trafficking Monitoring Committee on 19 June 2012. It defines the stakeholders (both government and non-government entities) who can be involved in the identification of victims or potential victims and can refer them to assistance and support, such as relevant procedures, issuing of residence and work permits, health care and voluntary return.

Some civil society representatives met by GRETA were not aware of the existence of the NRM while others considered that the role foreseen in it for NGOs is not clear

and NGOs should have a more prominent role, given that a large numbers of victims have been detected by NGOs.

There are currently no dedicated accommodation facilities for male victims of trafficking in Malta. Accommodation for such victims is provided through public social partnership agreements with NGOs.

According to Aida's country report, National legislation provides that UNHCR shall have access to asylum applicants, including those in detention and in airport or port transit zones. The law also states that a person seeking asylum in Malta shall be informed of the right to contact UNHCR. There is no provision in the law with respect to access to asylum applicants by NGOs, however, it states that legal advisers who assist applicants for asylum shall have access to closed areas such as detention facilities and transit zones for the purpose of consulting the applicant. Thus, NGOs have indirect access to asylum applicants through lawyers who work for them. In practice, however, asylum seekers located at the border or in closed centres do not face major obstacles in accessing NGOs and UNHCR.

In its first report on Malta [2013], GRETA considered that the Maltese authorities should conclude protocols of co-operation with NGOs in order to provide assistance to victims, complementing the services provided by the Agency Appoġġ. The application of such protocols should be regularly monitored and assessed. 168. As noted in paragraph 17, one NGO (Caritas Malta) is represented in the Anti-THB Monitoring Committee. Two NGOs - the Jesuit Refugee Service and Caritas Malta - are members of the Stakeholders Task Force on Human Trafficking. These two NGOs are involved in the preparation of National Action plans and their implementation.

NGOs receive government funding for providing services to victims of trafficking, such as accommodation and legal support (see paragraphs 78 and 89). The Ministry for Social Dialogue, Consumer Affairs and Civil Liberties and the Ministry for the Family and Social Solidarity provide funding to NGOs working on social projects, including allocating some 250, 000 EUR for this purpose. There are no specific funds earmarked for NGOs working against THB or supporting victims.

Other bodies that bring together Stakeholders in this area, for you nationally?

The Anti Human Trafficking Monitoring Committee which has set up A National Referral Mechanism (NRM) defines the stakeholders. (see above under NRM)

A list of National Indicators for identifying victims has been developed. This list was disseminated amongst local stakeholders who are considered as working in areas where they may encounter potential or actual victims. These are the Police (Vice Squad, Immigration and Border Control), Appoġġ Agency, Health, and the Agency

for the Welfare of Asylum Seekers (AWAS), the office of the Commissioner for Refugees, the Employment and Training Corporation (ETC) and the Jesuit Refugee Services (JRS) and Caritas Malta, amongst others.

The list was also disseminated amongst professionals who are considered as front-liners, including NGOs, Case Workers of the Officer of the Refugee Commissioner and of the Agency for the Welfare of Asylum-Seekers. All these professionals have undertaken training in this regard and are involved in drawing up of the Indicators. Furthermore a Victim Referral Mechanism was mapped out for victim referral. In order to consolidate this mechanism and streamline operations between the stakeholders Standard Operating Procedures (SOPs) have been developed.

Regarding the existence of a relatively large irregular labour market in Malta prevention of THB for labour exploitation is addressed by means of labour inspections. There are two entities responsible, namely, EIRA Inspectors and Employment and Training Corporation (ETC, now called JOBSPLUS). The latter was founded in 1991 as a public employment service under the responsibility of the Ministry for Education and Employment. JOBSPLUS supervises adherence to employment legislation by checking the existence of employment contracts and their conformity with relevant legislation, but it does not control working conditions. The ETC seeks to address three types of offences, (i) employment of irregular migrants; (ii) under-aged workers (below 16 years of age) and (iii) benefit fraud. The ETC carries out inspections at places of work, including massage parlours. While ETC inspectors found irregularities, no case of human trafficking has been found.

ETC staff have received training about human trafficking. The ETC takes a risk-based approach and has analysed in what sectors, at what times and among which sociological groups the risk of irregular employment, typically of young immigrants, is the highest and allocates its resources accordingly. For example, inspecting construction and hospitality services, in particular in tourist areas and especially during late hours. On occasion the ETC makes joint inspections with the Immigration Police.

Labour inspections are also carried out by the Department of Industrial and Employment Relations. These inspectors are known as EIRA inspectors. Unlike ETC inspectors, EIRA inspects working conditions, including health and safety. Inspectors enter private households to examine the working conditions of domestic workers or workers carrying out renovation work. EIRA inspectors have received training on how to identify victims of THB and some victims have been identified by the police as a result of EIRA inspector referrals.

The formal identification of victims of trafficking is the responsibility of the Vice Squad of the Malta Police Force, following referral by other stakeholders having encountered a possible victim of trafficking, such as the Immigration Police, the Employment and Training Corporation, the Department of Industrial and Employment Relations, the Central Visa Unit of Identity Malta, the Department of Citizenship and Expatriate Affairs, the Office of the Refugee Commissioner, the Agency Appoġġ and NGOs. Victims of trafficking can also contact the authorities on their own initiative.

The largest case of labour trafficking detected in Malta took place in 2016. It concerned 31 Filipino victims who were hired to provide cleaning services at national hospitals after their employer won a public tender contract. In breach of their contracts, the victims were forced to clean other premises, such as factories, office buildings and private households. The exploitation was detected as a result of a work place inspection by the Department of Industrial Relations and Employment during which the inspectors spoke to the victims. The inspectors reported the case to the police. All 31 victims were assisted by a Lawyer and co-operated with the police.

The Jesuit Refugee Service and the UNHCR have access to migrants who are kept in open Reception Centres. The staff are trained to identify victims of trafficking among irregular migrants and asylum-seekers. The United Nations Special Rapporteur on the Human Rights of Migrants in a report in 2014 mentions the role of the Jesuit Refugee Service and UNHCR in assisting with the development of procedural safeguards in the context of reception of refugees.

Accommodation for such victims is provided through public social partnership agreements with NGOs which provide accommodation and charge the authorities for their services.

According to the EMN 2009 study on unaccompanied minors there is growing awareness of the dangers of human trafficking and an increasingly vigilant application of this to unaccompanied minors, which is especially needed for those who move to other countries. One notes that unaccompanied minors (children) are among those who gain from generous help from Non-Governmental Organisations (NGOs) and International Organisations (IOs), as well as programmes of resettlement to other countries, the latter process being carefully monitored with the help of IOs, The Stakeholders Task Force on Human Trafficking, Agenzija Appogg , JRS Malta, Aditus Foundation, Caritas Malta, KOPIN that would bring stakeholders together in this area.

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- KOPIN

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- Reaching Cambodia Foundation

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- Jesuit Refugee Services

- Caritas Malta

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The place of Faith Based Organisations (FBOs) in these fora and particular areas of concern / expertise taken forward by these Faith Based Organisations (FBOs)?

The main humanitarian actors are FBOs, NGOs and IOs such as UNHCR and IOM.

According to Country Profiles: 30 country profiles reflecting the state and diversity of the humanitarian sector in Europe, in Malta, priority is given to asylum-seekers and irregular migrants. Areas of activity include: advocacy, legal aid, housing, education, training and work, work with unaccompanied minors, women and other vulnerable groups. The trend in recent decade has been towards work with asylum-seekers and irregular migrants. This trend is set to continue with the instability of Malta's southern borders in particular with Libya.

Contributions in the whole area of Prevention taken forward by FBOs and NGOs?

The Anti-Human Trafficking Monitoring Committee set up in 2011 remains the body responsible for drawing up and monitoring the implementation of anti-trafficking policies. The one NGO representative on the committee is Caritas Malta.

At its simplest 'prevention' means taking action to stop something that is otherwise likely to happen. 'Action to prevent child trafficking' consequently refers to a wide range of efforts to address the causes of trafficking, both to influence the actions of individuals and to tackle underlying and root causes.

- **The People for Change Foundation** promotes a rights based approach to counter-trafficking focusing on the development of law, policy and capacity

focusing on research, lobbying and capacity building. Efforts to contribute to the development of consistent and effective anti-trafficking policies are based on a human rights, gender, age, and cultural sensitive approach and with a multi-stakeholder, holistic, and integrated perspective. The Foundation hopes to contribute to evidence based policy-making in the area.

- **The Migrant Health Liaison Office**, organizes health education sessions for migrants. It delivered a session on human trafficking to unaccompanied minors, considered to be a vulnerable group at risk of falling victim to human trafficking.
- **KOPIN** and its project “Catch and Sustain” allowed Kopin to become an important actor in the fight against trafficking of minors in Malta, leading to further collaboration with frontline workers since 2015. The **Specific Objective:** to develop and implement a training model for operators who work in direct contact with children who have been trafficked or at risk, and provide capacity-building and networking opportunities for stakeholders.

Through the financial support of Terre des Hommes (TdH) Netherlands, Kopin was able set up the Maltese ‘branch’ of TdH Italy’s FARO Project, called *Il-Fanal* (Maltese for *Lighthouse*). Il-Fanal offers psycho-social support to asylum-seeking minors who attend State Schools in Malta. In fact, the programme is being implemented in cooperation with the Student Services Department (SSD) as well as migrant learners’ support unit of the Ministry for Education and Employment (MEDE), with whom Kopin’s team coordinates its engagement in schools with high numbers of foreign students.

Kopin has also been partnering with UNHCR, the Police Forces, Aġenzija Appoġġ, AWAS, as well as national and international civil society organisations in the fight against and prevention of child trafficking. In collaboration with its partners Terre des Hommes Italy and the European Federation for Street Children, Kopin is providing anti-trafficking tools and training to frontline workers as well as services to potential and actual victims of child trafficking.

Key activities of Kopin:

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- Research concerning the populations of minors most at risk of becoming victims of trafficking in Malta
 - Development and testing of a toolkit for the fight against child trafficking
 - Training and capacity building for frontline workers in the fight against trafficking of minors
 - Provision of networking space for frontline agencies.

From Professionalism of Humanitarian work: The case of Malta, (Alba Cauchi, Dept of International Relations, Faculty of Arts, University of Malta. Published by EUPRHA- European Universities on Professionalisation on Humanitarian Action).

“Maltese civil society, and in particular Catholic Church-affiliated FBOs, has a much longer humanitarian tradition than the state. The arrival of asylum seekers led to the creation and/or growth of various NGOs focusing mainly on services to individuals living in open, and closed centres and the community and less focus on humanitarian emergencies in the countries of origin (e.g. Somalia, Eritrea). These NGOs in the refugee sector engage in informal multi-stakeholder dialogue processes with the government and all interested parties. A number of NGOs and FBOs also embark on activities over-seas in immediate emergency relief and often in bridging the humanitarian-development continuum moving into more development oriented activity. The countries Malta most often operates in are connected through missionaries or are chosen on an ad hoc basis in relation to current emergency needs. Malta has a strong tradition of missionary work. Thus, most humanitarian work would normally take place in the context of a more long-standing presence of these religious groups in a country or community. According to a recent study, Maltese missionaries have in recent years been active in at least 70 countries globally, mostly but not only in developing countries. This is an area that has also attracted a growing number of Maltese volunteers travelling to the missions to provide assistance. Traditionally, there is hence a fusion of development and humanitarian work.” (p4).

Some specific contributions into this area of engagement being made by the Catholic Church in Malta?

The Malta Diocesan Immigrants` Commission

Refugees have been helped in Malta in Diocesan services, including, given protection, basic needs, accommodation, recreation and schooling. This is made more effective by the official recognition of the Emigrants' Commission as an Operational Partner of the UNHCR Branch Office in Rome. Help for refugees is also solicited by the Commission through its domestic and foreign contacts. Records are kept and reports are issued. The Emigrants' Commission has some 10 homes at its disposal, where approximately 150 of the most vulnerable refugees are

accommodated, free of charge. Some of these homes are privately owned, while the others belong to the Church.

An example of the Catholic Church in Malta together with other churches

On Friday 6 January 2017, the Prime Minister of Malta, Dr Joseph Muscat, and other Maltese Government ministers met with representatives of Europe's Christian Churches at the start of the six-month [Maltese Presidency of the Council of the European Union](#). The meeting was convened to discuss the [priorities of the Maltese Presidency](#) including migration, neighbourhood policy, and social inclusion.

The meeting took place under [Article 17 of the Treaty of the Functioning of the European Union](#) (Lisbon Treaty) which obliges the EU to hold an open, transparent, and regular dialogue with churches and religious communities. Such consultations with the churches on the Presidency priorities take place typically at the start of each six-month rotating presidency of the Council of the EU. Malta's period at the helm of the 28 EU Member States began on 1 January and runs until 30 June 2017.

Issues relating to migration and the reception of Refugees in Europe dominated the hour-long meeting. Both Government and Church representatives expressed the need to reframe this discourse, including speaking of the benefits of migration for European societies and emphasising opportunities to welcome those in need of safety in Europe. The Churches also reiterated their call for improved safe and legal pathways to Europe, the central importance of family unity and reunification, and the work Churches do in local contexts in providing transformative encounters with refugees.

The Church delegation was put together by [COMECE](#) (representing the Catholic Church) and CEC (representing Orthodox, Anglican, Protestant and Reform churches). They urged the Maltese Government to ensure that EU responses to migration and the reception of Refugees take into account the root causes of the displacement of people, including ecological crises. The Church representatives expressed the view to the EU leadership that European Union policies should be coherent with the United Nations Sustainable Development Goals.

Representatives of COMECE and CEC:

- His Grace Mgr. Charles J. Scicluna, Archbishop of Malta and member of COMECE
- His Lordship Mgr. Mario Grech, Bishop of Gozo
- Right Reverend Dr Robert Innes, Bishop of Gibraltar in Europe, Church of England
- Mgr. Joseph Galea Curmi, Vicar General, RC Malta
- Rev. Prof. Emanuel Agius, Dean, Faculty of Theology of the University of Malta
- Ms. Doris Peschke, General Secretary, Churches' Commission for Migrants in Europe
- Br. Olivier Poquillon, OP, General Secretary of the Commission Bishops' Conferences of the European Union

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- Ms. Erin Green, Communication Coordinator, Conference of European Churches Advertisements

Female Religious in Malta working with Prevention-focused projects?

The Good Shepherd Sisters –Dar Merhba bik Foundation – provide a shelter for women and children, victims of domestic violence. The Sisters of Charity St. Jeanne Antide Foundation support victims of prostitution.

Safeguarding and Protection.

A Joint Declaration by the Bishops of the Diocese of Malta and Gozo, Mgr. Charles J. Scicluna and Mgr. Mario Grech on Thursday 03 September 2015 shows the great need for child protection.

The Bishops wish to reassure the public that one of their main objectives is to safeguard minors and that the laws, both civil and ecclesiastical, are always observed and followed in this respect, just as in every other case.

As already announced, during the Autumn of 2014, the Bishops, together with the Major Religious Superiors of Malta and Gozo adopted and published the new policy regarding the procedures for the investigation of alleged abuse of minors by clergy, religious and other pastoral workers. At the beginning of this year, these same ecclesiastical authorities nominated a group of experts to form the Commission for the Safeguarding of Children and Vulnerable Adults (also known as the Safeguarding Commission), under the leadership of the Head of Safeguarding, Mr. Andrew Azzopardi. This Commission has been in operation since February 2015.

According to this policy and Canon Law, when there is alleged abuse of minors by a priest, the Bishop immediately sets limits or suspends the pastoral ministry of the priest in question so as to avoid any further contact with minors. The Bishop also refers the case to the Safeguarding Commission for the necessary investigations. Civil law that may be applicable is also observed. Following the process, if it is proved that the accusation is true, the priest is given the applicable penalty. This penalty could be a permanent restriction of his priestly ministry, or a dismissal from the clerical state.

The Bishops are in agreement that, with immediate effect, every definitive decision taken with respect to permanent restrictions on the priestly ministry or removal from clerical state will be made public through the websites of both Dioceses - www.maltadiocese.org and www.gozodiocese.org.

This line of action is to be taken in conjunction with the present practice wherein the parish priest of the concerned priest is also informed of this decision. The priests are also removed from the official list of members of the clergy.

Lead organizations in Malta, currently working on Safeguarding.

COMMISSIONER FOR CHILDREN

Ms Pauline Miceli is the [Commissioner for Children](#). She works directly with children to safeguard their interests and listen to their needs. The Office of the Commissioner for Children was set up in Malta to focus on protecting children and their rights, as well as providing the necessary services for children. The office monitors all areas and sectors related to children in Malta and makes sure that there are family-friendly policies that are also child-oriented.

AĠENZIJA APPOĠĠ

[Aġenzija Appoġġ](#) is the central National Agency for children and families in need. Its aim is to help and improve lives by providing professional care and support through community-based and specialised social welfare services.

CHILD PROTECTION SERVICES

Child Protection Services deal with cases of abuse and severe neglect of children, and when a child seems to be suffering from, or is at risk of, significant harm. Child Protection Services investigates referrals received from various sources such as schools, Police, medical doctors and other professionals, as well as from calls received on Supportline 179, and from the general public. Social workers carry out investigations and assessments whenever there are allegations that a child is suffering, or is at risk of suffering, from significant harm resulting from physical, sexual, emotional abuse and/or neglect. Their Mission Statement is: *"To provide a quality service by offering protection to vulnerable children and adolescents under the age of eighteen years, who have been abused and/or neglected or who are at risk of being abused and/or neglected."*

Protocols in place for engaging with FBOs. (Faith-based Organisations)

There is the Voluntary Organisation Act of the Laws of Malta, Chapter 492.

Act xxii of 2007, as amended by Legal notices 427 of 2007 and 177 of 2012 and by Act vii of 2015.

NGOs have to be registered with the Office of the Commissioner for Voluntary Organisations.

Although no specific law exists which is humanitarian in nature a peculiarity may be seen in the Legal Notice that establishes AWAS, the agency for the welfare of Asylum-seekers, technically tasked with reception arrangements, they also carry out vulnerability assessments out of detention, thus acting as a key participant in referral.

According to *Malta in Country Profiles*, accountability has yet to emerge as a topic within the Maltese Aid landscape generally and in respect to humanitarian aid. Internal accountability within NGOs and IGOs is encouraged strongly through the Voluntary Organizations Act

Governmental Agreements.

[What role does the Maltese Parliamentary Forum undertake in addressing the challenges of child trafficking?](#)

According to the US Trafficking in Persons Report 2016 (TIP), The Government of Malta does not fully comply with the minimum standards for the elimination of trafficking. However, it is making significant efforts to do so. Although the government developed victim referral guidelines, it reduced the amount of public funds for trafficking programmes by 70 percent in 2016.

While the government continued to identify victims, including one victim of internal trafficking, it did not identify any child victims, including among children prosecuted by Maltese courts for prostitution offenses. Authorities initiated more trafficking prosecutions, yet the government did not convict any trafficking offenders for the second consecutive reporting period. Yet, it passed an amendment to the criminal code that enhanced penalties for offenders and better aligned the code with international law on consent. It launched a public-awareness campaign during the reporting period.

Regarding prevention efforts the government also demonstrated modest anti-trafficking prevention efforts. For a second consecutive year, the government maintained an anti-trafficking budget of 20,000 EUR (US\$21,760), a decrease from previous years. The government did not conduct any anti-trafficking awareness campaigns. The inter-ministerial anti-trafficking committee was charged with implementing the National Action Plan, but implementation was hindered due to a lack of funding. Although authorities conducted 19 labour inspections, the government did not make efforts to reduce the demand for commercial sex acts or forced labour. The committee publicly released two semi-annual reports monitoring

the government's anti-trafficking efforts in 2015. The Social Welfare Agency continued to run a hotline for individuals in need of social services, including trafficking victims. The government funded anti-trafficking training provided by an International Organization for its diplomatic personnel.

In its first evaluation visit to Malta (2013), the supervisory mechanism of the Convention on Action against Trafficking in Human Beings (CoE), GRETA, sketched the following picture of the trafficking problem in Malta:

- Malta is a country of destination for victims of trafficking in persons.
- All victims (24 women and one man; no child victims) identified over the period 2003-2011 were foreign nationals, coming principally from Russia, Ukraine and Romania.
- Sexual exploitation is designated as the main purpose of trafficking in persons.
- Most of the victims entered Malta legally. Two of the victims identified were re-trafficked within Malta.
- In terms of protection, over 2010-2012, three Nigerian women were granted refugee status on the basis of being victims of trafficking, although they were not formally identified as such.

Although the Government of Malta has taken action to eliminate trafficking in persons, more efforts are needed, particularly in the law enforcement sector. The fact that Malta has not secured a single trafficking conviction since early 2012 attests to the lack of accountability for criminals perpetuating this crime. Malta's first National Action Plan on Combating Trafficking in Persons was implemented over the period 4th quarter 2011 to 4th quarter 2012 with the result of implementing a Stakeholder Task Force at operational level.

The setting up of an Anti-Human Trafficking Coordinator and an Anti-Human Trafficking Monitoring Committee by the Prime Minister is hoped to improve efforts to combat trafficking.

The second National Action on Combating Trafficking in Persons, which covers the two years 2013 and 2014 has also been adopted by the Monitoring Committee.

The Maltese authorities have further developed the legal framework for combatting trafficking. The expanded definition of THB in the Criminal Code, which explicitly includes "forced labour" and "activities associated with begging" among the purposes of exploitation and "abuse of a position of vulnerability" among the means for committing the offence, is in line with the recommendations made in GRETA's

first report [2013]. Another positive legal development is specifying the irrelevance of the victim's consent to the intended or actual exploitation.

The Third National Action Plan against THB (2015-2016) focused on the provision of assistance to victims of trafficking and on action against trafficking for the purpose of labour exploitation. In this context, GRETA commends the efforts made to provide training to a range of professionals and to raise awareness about this form of trafficking. The detection and investigation of two recent cases of labour trafficking is a reflection of these efforts. It is a positive reflection of the victim-centred approach adopted by the Maltese authorities that the victims identified in these cases were granted residence permits and received assistance in finding new employment in Malta. GRETA commends the steps taken since its first evaluation [2013] to put in place a National Referral Mechanism (NRM), defining the roles and responsibilities of stakeholders in detecting, identifying and referring to assistance victims of trafficking. Both government agencies and NGOs are involved in the NRM, which is a positive development. A list of indicators for identifying victims of trafficking and Standard Operating Procedures have been adopted and disseminated to all stakeholders. GRETA also welcomes the adoption of the new Victims of Crime Act, which includes provisions regarding access of victims of trafficking to assistance and compensation under the Criminal Injuries Compensation Scheme. The latter now explicitly mentions victims of trafficking as eligible for State compensation, 176. The reinforcement of the Police Vice Squad which deals with investigating and in most cases prosecuting human trafficking cases is another welcome development. This is accompanied by close cooperation between police staff from different units in investigating human trafficking cases, including financial investigations.

During 2016, the Ministry for Justice, Culture and Local Government in collaboration with the International Organization for Migration (IOM) entered into an agreement to implement a six month project on how to Improve Quality of Prosecution and Protection of Victims of Trafficking through the Justice System in the Republic of Malta for the members of the Judiciary as well as police investigators and prosecutors. A research was undertaken for a period of six months examining judicial sentences regarding trafficking in persons, after which a two-day training event was held addressing the Judiciary. During the training it was emphasised that all efforts should be taken to protect the victim at all stages during the judicial process from the initial stage of identification until reinsertion into society. It was also stressed that efforts should be made to make the Court environment as friendly as possible to these people including, wherever this is possible, through the minimisation of contact with the former exploiter.

Topics covered during the training included: Major problems faced by the participants in the fight against trafficking; improving the quality of prosecution and protection of victims; Maltese Legislation and gaps in the sphere of Trafficking; challenges and responses; Case Law and Pertinent Elements to Identify victims.

Particular aspects of child trafficking which appear to be attracting most attention from the Maltese parliament?

KOPIN *Literature Review on Populations at risk of (child) trafficking in Malta*, (June 2013), notes the lack of attention given to child trafficking in the National context, and a failure to recognise the possibility that this is a real issue affecting children in Malta.

The limited research identifies Maltese children as vulnerable to internal and international trafficking primarily in the sex industry. Migrant children especially unaccompanied, are vulnerable to trafficking into, through and from Malta. Vulnerability of unaccompanied minors has been highlighted inter-alia by Aditus and JRS Malta in submissions relating to a National Children's Policy. Each expressed concern regarding the vulnerability of migrant children, and in particular unaccompanied children upon release from detention and when travelling abroad alone. The vulnerability of migrant children is also noted by the US TIP Report 2010.

"Partly as a result of the lack of identified cases of child trafficking, this is not a priority policy issue and has received little attention from the relevant stakeholders. In turn, such lack of attention may result in a failure to invest the required resources in anti-child-trafficking efforts that in turn will mean less identified victims" (TIP 2010).

On 10 January 2017, the Maltese Parliament has approved 'The Child Protection Bill 45.' This Bill is comprehensive focused specifically on children and the rights of children both living at home with parents and children living in next-of-kin fostering and residential homes.

The main principle of the Bill is the best interest of the child which gives a clear message to the public. This law puts a legal obligation and responsibility on the general public and professionals to report any abuse of awareness or witnessed. It also ensures that child abuse is investigated immediately and action is taken within a stipulated time. This ensures timely interventions, which might either result in timely support and help to the families involved so as to stop the abuse or else, in case the parent/s abusing and/or neglecting the children still fail to cooperate, it will result in Court or Care Orders (removal of the child from home), Treatment or Supervision Orders.

Another underlying principle of the Bill is that the best interest of the child is to remain living with parents and Care Orders should be considered as a last resort. For this reason, the Bill ensures that parent/s are made aware of the difficulties/concerns that they need to address through a social contract and that the care plan established with the social workers clearly indicates what needs to happen for the abuse to stop within specific timeframes.

Failing to address such issues at the expense of the safety and wellbeing of the child might then result in the removal of the child from home. Parent/s can appeal but more importantly they are given another opportunity to work on their issues. So reintegration of the children with their natural parent/s is possible even after they are removed as long as they address their issues and as long as it is in the best interest of the child. Failing to do so, parents face the possibility of losing children either through permanency or through Adoption.

Is membership of the European Union encouraging or discouraging a strong response to the various challenges for protection to be provided for children being trafficked?

Malta is a member of the EU and this membership encourages the authorities to respond to the various challenges for protection to be provided for trafficked children. The reason can be taken from KOPIN Literature Review. (June 2013)

“Over the past years Malta has significantly developed its legal, policy and institutional framework to better address the issue of human trafficking, including child trafficking. Developments in the area are motivated by a number of factors, including Malta’s obligations under international and regional legal instruments (most notably the European Union Directives), the impact of external monitoring measures (most notably the US-TIP Report) and growing public awareness on the issue.

In its first report, GRETA (2013) noted a number of important developments highlighting Malta’s efforts in meeting the requirements of the Council of Europe Convention but identified a number of concerns that need to be addressed, including: the development of partnerships with NGOs, improvement of assistance and support provisions, measures to ensure risk assessment and safe return, information on remedies including compensation, and the need to ensure the non-criminalisation of trafficked persons.”

Health and Education.

The **Health and Family Services** covers a range of services to meet the needs of service users coming from a lifespan ranging from the "cradle to the grave" in order to enhance them and their quality of life. These range from, Adoption and Fostering

Services; Health Services in various settings; as well as providing support in cases of Human Trafficking. Support is offered to adults as individuals as members of a family, as well as parents. These services also contribute to the psycho-social and physical development of children, and work towards strengthening the family unit and the home environment.

Child Protection Service

MISSION STATEMENT

“To provide a quality service by offering protection to vulnerable children and adolescents under the age of eighteen years, who have been abused and/or neglected or who are at risk of being abused and/or neglected.”

THE SERVICE

Child Protection Services deal with cases of abuse and severe neglect of children, and when a child seems to be suffering from, or is at risk of, significant harm. Child Protection Services investigate referrals received from various sources such as schools, Police, medical doctors and other professionals, from calls received on Supportline 179, as well as from the general public. Social workers carry out investigations and assessments whenever there are allegations that a child is suffering, or is at risk of suffering, from significant harm resulting from physical, sexual, emotional abuse and/or neglect.

AIMS & OBJECTIVES

- to carry out an investigative assessment after receiving a referral concerning a minor who may be at risk of abuse and/or neglect;
- to take measures for the emergency protection of children who are suffering from actual/alleged child abuse/neglect where this is necessary;
- to offer long-term follow-up work with children and their families where abuse and/or neglect are verified;
- to provide a procedural framework for the protection of children who are suffering, or are in danger of suffering abuse and/or neglect;
- to develop and promote a multi-disciplinary approach to the identification, investigation, assessment and follow-up of cases of child abuse and/or neglect;
- to formulate inter-agency child protection guidelines and to work in liaison with the concerned agencies towards negotiating these guidelines and applying them;
- to provide consultative services to agencies/organisations which come across cases of actual/suspected child abuse and/or neglect;

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- to gather and integrate statistics concerned with issues of child abuse and/or neglect;
 - to provide information and practical training to persons in contact with situations of child abuse and/or neglect.
 - to work towards developing a society with zero tolerance to child abuse and neglect.

Legislation.

LEGAL PROVISIONS to guarantee that child victims are protected from the effects of giving evidence in open court?

The 30th May 2017 saw the launch of “**Children`s House**,” a residence at St. Venera, Hemrun, Malta. This house is intended to provide a friendly and protected environment to children and adolescents away from the court buildings in the case of having to give witness of abuse and domestic violence. The house is equipped with rooms for psychologists when therapy is needed. Witness-protection programmes are available for adults and children. The Police Act contains provisions on the protection of witnesses and victims (children and adults).

Victims of a crime, witnesses in criminal proceedings concerned for their safety can be placed in a Witness Protection Programme. This is also possible with respect to persons who committed a crime and whose evidence is indispensable for the prosecution of the principal defendant(s) or accomplice(s) in the crime where that person agrees to cooperate with the public authorities for the purpose of the prosecution. The law does not differentiate between adults and children with respect to access to the programme.

The Juvenile Court Act is relevant to the situation of child suspects. However, some of its requirements apply to proceedings involving children in any court of criminal justice. These requirements are aimed specifically at protecting children.

In criminal proceedings involving a child or young person (under 16 years) only the following persons can be present at a court sitting or in any place adjacent to the room in which the hearing of the case is held: ■ Officials of the court and of the prosecution; ■ The parties to the case and their counsel or other members of the legal profession; ■ Representatives of the Ministry responsible for social welfare; ■ Witnesses or other persons directly concerned in the case; ■ The parent or other relative or the guardian of the child or young person charged or concerned in the proceedings; and ■ Bona fide representatives of Newspapers.

Newspaper reports or Broadcasts relating to criminal proceedings cannot reveal the name, address or school, or include any particulars calculated to lead to the identification of any child or young person concerned in the proceedings (either as the person charged or as a witness). The publication of pictures of the child or young person is also prohibited. These prohibitions can be fully or partially removed if the court finds it appropriate to do so in order to avoid injustice to a child or young person.

Legal Aid is provided free to victims of trafficking during the recovery and reflection period. Psychologists, social workers, psychotherapists and suitably qualified NGO representatives can be called to court hearings to support the victim and/or assist the court to understand the mental condition of the victim, which is also important for assessing the credibility of the victim. For example, The Jesuit Refugee Service provided support and legal advice to the victims (adults) in the Leisure Clothing factory case while these were being interviewed by police and during the subsequent court hearings.

[Guidelines for the participation of child witnesses and victims to bring their case to court.](#)

A child victim is any person under the age of 18. The children's best interest is the primary consideration that will be assessed on an individual basis. A child-sensitive approach, taking due account of the child's age, maturity, views, needs and concerns, shall prevail. Child victims are considered and treated as the full bearers of rights of the Directive to be heard and are entitled to exercise those rights in a manner that takes into account their capacity to form their own views.

Child victims have the right to be heard in criminal proceedings. The child and the holder of parental responsibility or other legal representative, if any, shall be informed of any measures or rights specifically focused on the child. In addition, special protection during the court proceedings includes non-disclosure of the name of the child. However, there might be cases where, exceptionally, the child can benefit from the disclosure or even widespread publication of information, for example where a child has been abducted. Interviews with the child should be audio-visually recorded, so they can be used as evidence during the proceedings. The child victim has the right to a lawyer.

The Police Act establishes a Witness Protection Programme which includes giving evidence behind a screen or via television transmission, and the resettlement of victims to other countries. Appogg officials can make requests to the Court of Magistrates to allow victims to testify by video-conferencing and to issue protection orders for victims. So far no such requests have been made in respect of victims of

human trafficking. The protection orders based on Article 412C of the Criminal Code are essentially restraining orders prohibiting defendants from approaching the injured parties, rather than active protective measures. The possibility to resettle victims in other countries has not yet been applied to victims of trafficking. Child witnesses may be allowed to testify by video link (based on Chapter 164 of the Police Act).

As children are more vulnerable and tend to experience a high rate of second and repeat victimisation, they need special protection regarding to child sexual abuse, sexual exploitation of children, child pornography and human trafficking.

In its first report (2013), GRETA considered that the Maltese authorities should make full use of the available measures to protect victims of THB and to prevent intimidation during the investigation and during and after court proceedings. The range of protection measures available to witnesses and victims in THB cases has already been detailed in GRETA's first report.

Provision for victimless prosecution.

Measures aimed at ensuring children are protected from harm relate to the protection of victims as witnesses in criminal proceedings. Some measures are available to both adults and children whilst others are aimed specifically at children. Examination of child witnesses under 16 years and when an audio and video-recording of the child's testimony is produced in evidence, the child will not be examined in person in court. There is an exception to this where the Court orders the child's presence because of a reason arising after the date of the audio and video-recording of the child's testimony. The presence of the child is considered by the Court to be in the interest of justice and truth. This child-friendly measure is an exception to the general rule that witnesses are always examined in person in Court (*viva voce*). The Police Act also makes special provision for the hearing of other vulnerable witnesses through video conference. This recognises that children require special protection and aims to secure greater protection of the personal safety, modesty and psychological stability of child witnesses. Finally, witnesses in the Witness Protection Programme who give evidence during a trial can be screened from the accused or give evidence by live television transmission. This option is also available to child witnesses in the Witness Protection Programme.

Instances which need to be verified, of those who have been victims of trafficking, ending up under criminal charges.

In February 2016 a Research Project was launched on THB cases, agreed between the Maltese authorities and the IOM and funded by the Irish authorities. It aimed to examine why offences which are investigated and/or prosecuted as THB often end up with convictions under other crime headings.

In its first report [2013], GRETA urged the Maltese authorities to provide for the possibility of not imposing penalties on victims of trafficking for involvement in unlawful activities when compelled. Further, GRETA urged the Maltese authorities to improve the identification of victims among irregular migrants in order to ensure that victims of trafficking are not punished for Immigration-related offences.

As was the case at the time of the first GRETA report, Article 248E(6) of the Criminal Code establishes that *“the offences committed under this sub-title (i.e. trafficking in human beings) shall not be liable to punishment if the offender was compelled thereto by another person, where the provisions of Article 33(b) do not apply.”*

Article 33(b) exonerates a person from criminal responsibility provided that the elements of coercion are (“irresistible external force”) are proved to the Court’s satisfaction and in accordance with the law. The Maltese authorities have stated that in the case of THB the onus of proof of external constraint would not lie with the defendant, contrary to other contexts. Victims of THB would not be prosecuted in the first place for crimes committed as a direct result of their trafficking. For instance, if a person is compelled by a trafficker to engage in prostitution and is stopped by the Police on the grounds of “loitering for prostitution” (which is a criminal offence in Malta), the Police Vice Squad would not prosecute the person concerned. The Maltese authorities consider that the legal basis for the full application of the non-punishment provision of the Convention is in place.

In its first report,(2013), GRETA noted that legal proceedings concerning THB take a long time and stressed the negative implications that this had on the redress of victims of trafficking. This problem remains acute. The Maltese authorities have referred to staff changes, as for example the retirement of an Appeal Court Judge, as one of the reasons for the delays.

LEGAL PROVISIONS to appoint an appropriately experienced Lawyer to represent child victims.

According to KOPIN June 2013 Children’s Rights advocates are not included within any of the institutional frameworks set up in the context of trafficking – they are not represented on the Monitoring Committee nor do they participate on the stakeholder taskforce. However the Child Protection Act provides for a child Advocate:

"Child Advocate" means a lawyer appointed in terms of regulation 3 of The Civil Court (Family Section), The First Hall of the Civil Court and The Court of Magistrates (Gozo) (Superior Jurisdiction) (Family Section) Regulations;

"Child Court Services" means a team set up within the Family Court comprising Child Advocates, Child Protection Mediators, CPS and Child Protection Guardians;

National Children's Policy recognises that a person should be present in civil judicial proceedings, ideally a Child Advocate, for the rights of the child.

Lawyers are involved if they are engaged by the children and/or by their parents. Social workers and Child Advocates should work together to safeguard the social, emotional and civic rights of the child. The Policy also recommends that specific guidelines on the practices of the Child Advocate in court cases are established, that more investment is put into recruiting Child Advocates, and that children with their own discretion, be given the right to ask to be represented by an Advocate. This right should not be restricted by age.

According to GRETA 2016, there is a list of Lawyers (currently 12) who may be called upon by Magistrates to provide free legal aid in criminal proceedings. Such free legal aid is available to victims of THB, just as to any other victim of crime. However, none of the 12 Lawyers is a specialist in THB cases. In theory it is possible for victims of THB to get free legal aid for civil cases, but in practice this is very difficult, because there are no funds available for translators or interpreters.

Assessment and Recommendations.

Across the churches, are particular aspects of Child Trafficking being debated – Prevention; Protection; Migration; National Security; National Identity; Religious Continuity?

The Diocesan Immigrants' Commission in Gozo made a report to the Bishop in Gozo noting that the efforts of the Church in Gozo should be focused on promoting the integration of Immigrants living in Gozo. It noted being attuned to the needs of the Migrant community in Gozo, addressing the needs they identify and building on existing good practices. This should be accompanied by efforts to raise awareness of the reality experienced of Immigrants living in their midst. There is the need to take account of Catholic Social Teaching on Immigration issues among the local parish communities, that is advocating to go beyond integration and tolerance to a true welcome in a spirit of love and compassion.

A PROPOSAL OF AN INTEGRATION STRATEGY FOR GOZO:

Integration has been described as ‘a dynamic, two-way process of mutual accommodation’ by all Immigrants and members of the host society. It needs the cooperation and openness of both parties concerned if it is to be truly successful. Integration can only happen when the hosts and the guests are in unison learning and getting to know each other. Ignorance or lack of proper information is often the cause of fear of ‘the other.’ Compassion, friendship, hospitality and solidarity can be present only when people begin to talk, discuss, discover and relate to each other. The Commission believes strongly that for any practical proposal feasible for Gozo has to be workable within the limited resources of a small and modest diocese like Gozo. This proposal can succeed only if it is developed on a simple structure, with an educational component and above all with a compassionate approach. These should be the three key factors to lead any action taken to operate this social and cultural programme which is divided into two elements but oriented towards a shared common effort of integration.

The churches in Malta look at the whole issue of Human Trafficking and not specifically on child trafficking (seen in the various documents).

Looking at “*Out of Africa... into Malta*” an action by St. Andrew’s Scots Church, in partnership with Red Cross Malta and others, responding to the deep human needs of Immigrants notes: “*They arrive exhausted, grieving the loss of husbands, wives or children on their journey through the Sahara, then Libya’s conflicts and across the Mediterranean to Malta. The island which welcomed St. Paul then puts them into detention; into open centres where the tents and ‘cabins’ (old shipping containers) breed disease in the baking heat of summer, and misery in the damp cold of winter.*”

The greatest need is to help families to leave the camps behind. So Malta Microfinance aims to help family groups stand on their own feet again. It seeks to offer people ways to rebuild their lives. St. Andrew’s Scots Church, have helped Vietnamese Trafficked victims with English lessons.

Looking at Church Mission Society, mission partner of The Church of England, run by Doug Marshall, it advocates for a Christ-like response in a tiny country that has to cope with 18,000 Immigrants since 2002. Doug’s Team is working with local churches on microfinance initiatives and “*just being available and ready to meet people and show them dignity that they are acknowledged.*”

FBOs and specific co-operative alliances which they have formed to enable an improved response to the challenges of child trafficking in the country – and across their faith group networks.

The FBOs are the JRS Malta, The Good Shepherd Sisters –Dar Merhba Bik Foundation, The Jeanne Antide Foundation belonging to the Sisters of Charity, Caritas Malta, The Salesians of John Bosco, the Salesian Pastoral Youth Service, The Girl Guides and also single women Religious involved in teaching catechism in the Parishes. All these would have a number of volunteers, but also Parish volunteers that through various sources like the Parish Diaconia, come to know families in difficulties.

Mention of human trafficking is very rare. What is spoken in public is the situation of Migrants and Refugees and domestic violence.

Provision for the Spiritual needs of children whilst under the ‘Protection of the State.’

Belief in the essential meaning of life and hope in the midst of losses, tragedies, and failures is necessary for all human persons. Each human being has the need to discover and develop inner wisdom, creativity, love and self-worth.

On the 28th April 2017 Fr. Huan writes that in addition to providing pastoral care, assistance to access employment and social support, he was asked to help with translation and support. This support would offer much spiritual sustenance to victims.

Since 1992, an 85-year old Good Shepherd Sister, offers ‘spiritual help’ to a number of Refugees residing in part of the old convent, including refugee families with their children, single mothers, pregnant girls from sub-Sahara Africa, a girl from Russia, a family from Pakistan, a family from Afghanistan and trafficked victims from Vietnam and the Philippines. This sister has supported them in a ‘motherly’ way by welcoming all, giving them hope, and leading them to God by a good word, but more so by her accompaniment and availability.

With her is a group of voluntary helpers from the Parish. Donations of food and money are given to her for use with Migrant families. Once a week the voluntary workers help her pack food parcels to distribute to each Refugee. Other voluntary workers from the Parish help the Refugee children with their homework. When trafficked victims from Vietnam were residing in the same convent these volunteers helped with English language lessons. Media attention has been given to this work which helps to raise awareness of the needs of Refugees.

The role of the Red Cross in Malta to enable Family ‘location’ and re-connection.

The National Red Cross Malta is primarily a humanitarian organisation, created from the British Red Cross. Apart from running an Ambulance Service and First Aid

courses, The Red Cross takes care of logistical support for evacuations on an *ad hoc* basis (e.g. Evacuation from Libya in 2011). It also carries out family tracing activities on a regular basis for Refugees and Asylum-seekers in and out of detention centres and employs a humanitarian officer specifically for the job. The head of operations is Mr Robert Brincau with over 100 volunteers.

Restoring Family Links (RFL) is a mandatory service offered by all Red Cross societies to help restore contact between families separated by armed conflict, disaster or migration. Facilitating a means to contact loved ones, can help provide crucial comfort to often traumatised and vulnerable individuals.

There are several means by which this service is offered, as is stated:

- **Phone calls**

We are funded by the International Committee of the Red Cross (ICRC) to provide every new arrival with a five-minute phone call. These telephone calls are the most direct way of contacting and reassuring families that an individual is safe and is a crucial aspect of the support we offer to Asylum-seekers.

- **Tracing requests**

We offer a written, confidential, and free tracing service to any individual that has lost contact with their loved ones. Using the global Red Cross and Red Crescent network, we endeavour to locate lost family members and assist with tracing requests from other Red Cross National Societies.

- **Family Links Poster**

In 2014, we joined a number of Red Cross Societies across Europe participating in the Family Links Poster project, a new initiative launched by the ICRC to assist in combating the difficulties faced by those trying to trace their families. Photos of people searching for family members are placed on posters at special locations throughout 18 European countries and also displayed on familylinks.icrc.org, the ICRC's tracing site.

- **Other methods**

There are additional methods of re-establishing contact with family members including Red Cross Messages (RCM), “Anxious for news” and “Safe and well/I am alive” messages. More details on these and other services can be found on the ICRC Family Links website.

FACTORS which INHIBIT effective efforts to prevent child trafficking in Malta.

The [Trafficking in Persons 2016 Report: Country Narratives](#) regarding Malta, looks at what inhibits effective efforts to prevent child trafficking in Malta. The report includes recommendations, prosecutions and protection, as follows:

“Malta is a source and destination country for women and children subjected to sex trafficking and a destination for women and men subjected to labour trafficking. Women and children from Malta have also been subjected to sex trafficking within the country. The Government of Malta does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. During the reporting period, the government provided trafficking victims with shelter and services and funded training for police officers, community centre employees, and diplomats; in addition, its inter-ministerial anti-trafficking committee continued to implement the National Action plan. However, the government investigated and prosecuted fewer trafficking cases, identified fewer trafficking victims, did not adequately fund anti-trafficking efforts, and did not conduct National Awareness campaigns.

RECOMMENDATIONS

- Vigorously investigate and prosecute trafficking offenses and pursue adequate sentencing for convicted trafficking offenders;
- increase anti-trafficking training for police officers and offer training to prosecutors and judges, with a focus on working with victims;
- increase funding to the inter-ministerial committee to implement the national action plan;
- strengthen efforts to proactively identify trafficking victims among vulnerable populations, particularly migrant workers, women in prostitution, and children exploited for commercial sex;
- train stakeholders on the use of the standard operating procedures for victim referral; implement the newly adopted guidelines to protect irregular migrants from arbitrary detention; and conduct an anti-trafficking national awareness campaign.

PROSECUTION

The government demonstrated a slight decrease in law enforcement efforts. Malta prohibits both sex and labour trafficking through article 248A-G of the criminal code, which prescribes penalties of four to 12 years’ imprisonment. These penalties are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape.

Unfortunately, there is a slow pace of court proceedings hampered by prosecutions relying on foreign victims to provide testimony in court. The government, in

collaboration with an International Organization, provided training for 10 police officers and 35 community-centre employees on victim identification, but it did not offer training for prosecutors or judges. Frequent turnover of vice unit investigators, who also served as prosecutors, presented a challenge to authorities working to ensure all stakeholders receive specialised training.

PROTECTION

The government demonstrated modest efforts to protect trafficking victims. Police identified two trafficking victims, a decrease from 18 victims identified in the previous reporting period. Both victims were adult foreigners, one of sex trafficking and one both labour and sex trafficking. Although there are no shelters specifically for trafficking victims in Malta, the government, in partnership with NGOs, provided both victims with emergency shelter and services, as well as legal support. NGOs continued to provide support and services to 10 trafficking victims identified in 2014, some of whom also continued to receive financial support from the government. The government has never formally identified a child trafficking victim.

The government had standard operating procedures in place that allowed a range of entities to refer victims to its social welfare agency for care, including emergency shelter.

PREVENTION

The government demonstrated modest anti-trafficking prevention efforts. For a second consecutive year, it maintained an anti-trafficking budget of 20,000 EUR (\$21,760), a decrease from previous years. It did not conduct any anti-trafficking awareness campaigns. The inter-ministerial anti-trafficking committee was charged with implementing the National Action plan. However, implementation was hindered due to a lack of funding. Although authorities conducted 19 labour inspections, the government did not make efforts to reduce the demand for commercial sex acts or forced labour. The committee publicly released two bi-annual reports monitoring the government's anti-trafficking efforts in 2015. The social welfare agency continued to run a hotline for individuals in need of social services, including trafficking victims. The government funded anti-trafficking training for its diplomatic personnel; the training was provided by an International Organization."[end of report?]

Important recommendations can be taken from the following study: *From Professionalisation of Humanitarian work--- The case of Malta* (Aba Cauchi, Department of International Studies, Faculty of Arts , University of Malta).

A large proportion of humanitarian workers in Malta operate primarily in the local field. Overseas humanitarian action involves a small number of NGO operatives and Civil Protection officials who are highly involved specifically in emergency relief through the Assistance and Rescue Force or to a lesser degree in combination with Armed Forces operations.

The profiles of the individuals involved present an immense wealth of diversity yet within similar sectors; these would include social workers, psychologists, human rights, legal, and medical professionals and civil protection officials. Their involvement in the sector is driven by commitment and dedication to the field, rather than specifically humanitarian education or backgrounds.

On an individual level the fieldworkers interviewed shared input on the personal dimension of professional humanitarian work. Many of the respondents expressed frustration in finding the time to reflect on problems and shortcomings in order to act accordingly. They added that this becomes more problematic with time, wherein the priorities of getting the job 'done' did not allow the opportunity for reflection and continued education.

Important points in the fieldworkers' experience are, the focus on the team, the need for mutual support and how the sharing of experiences both for support counselling and debriefing is vital. These contribute to the professionalism of the individual through improved analytical skills, personal understanding and improved communication skills resulting in better teamwork.

Another important element outlined by fieldworkers is the importance of collective professionalism and the multidisciplinary nature of teams working closely in discussing cases and situations so as to work towards the best outcome. The importance of multidisciplinary teamwork for fieldworkers seemed to be evident both within an organisation but also in collaboration between numerous organisations.

Conclusions.

In the first place there is need to talk a lot more about the dangers that unaccompanied minors might be facing as regards trafficking. In the country very rarely is this grave danger talked about or mentioned. Much is said about migration, Refugees, Asylum-seekers but not about the trafficking of adults or children.

Regarding Prevention and Protection more awareness needs to be made on this grave reality with the many Religious Congregations that have schools, residential homes for young people with problems. These include homes run by the Salesian Fathers, groups that are responsible for children especially the M.U.E.U.M who are Lay women and men responsible for teaching Catholic Religious doctrine to children, candidates for First Holy Communion and the Sacrament of Confirmation. These Parish groups are in continual communication with parents and so awareness can be raised regarding supervision of any dangerous social media.

A more effective way of working would be for Religious Congregations to come together, to speak with 'one voice' about Christian values of support for minors, but also about the society which needs to be more protective of children. In this way coming together gives added support especially to advocate for the Maltese Government to be aware of the need and to allot more money in the coming budget so as to make National Action campaigns create awareness (as seen in the literature, National campaigns need money to be on-going and effective)

Protection for children is of concern, especially for children who are vulnerable to the pressures of society, to the enticement of a glamorous job or lifestyle advertised on the media, to sexual promiscuity, to 'lover boys' or who may be at the mercy of those for whom money is a prime value.

Prosecution of traffickers is crucial, but also of all those who accept the services of a trafficked person. Such prosecution can act as a deterrent.

A society which is more supportive of families, especially vulnerable dysfunctional families with low income is important in the fight against THB. It would also be helpful to have a society in which Christian values are upheld, that give meaning to life. All of which can help in prevention of human trafficking.

It is particularly worrying that many young people seem to find little meaning in life, except for the present or the attraction of wealth, power, fame. These are the vulnerable who need guidance to mature in their self-worth. The Maltese society of today is often 'fluid' needing guidance and sound principles. Education can offer some help especially through study and research of what is taking place in a changing society and the influences of the larger world on Maltese society.

The study on "Professionalisation of Humanitarian work (April-May 2014)" states that the Interviewees in the study highlighted the importance of having a theoretical background to inform practice in humanitarian work. However this theoretical background would include "not only academic matters but issues of codes of conduct, ethics, roles, responsibility and accountability which are in turn closely connected with power issues and the absence of accountability towards

service users.” Trafficked service users, adults or children, because of the great damage experienced would need to be treated especially with gentleness and respect. One needs to be especially careful to be aware of oneself, to be true to oneself and in this way show respect and real concern, in order to give hope and all the necessary practical help that is needed.



Religious in Europe Networking
Against Trafficking and Exploitation

The Netherlands

**A Report prepared by Rev Dr Carrie Pemberton Ford with the assistance of
Olivia Conroy and Ivonne van de Kar.**



Country Overview.

Capital: Amsterdam

Geographical size: 41 542 km²

Population: 16 900 726 (2015)

Population as % of total EU: 3.3 % (2015)

Gross domestic product (GDP): EUR 678.572 billion (2015)

Official EU language(s): Dutch

Political system: Parliamentary Constitutional Monarchy

EU member country since: 1 January 1958

Seats in the European Parliament: 26

Currency: Euro. Member of the Eurozone since 1 January 1999

Schengen area member? Yes, Schengen Area member since 26 March 1995.

Presidency of the Council: the Netherlands has held the revolving presidency of the Council of the EU 12 times between 1960 and 2016.

The Netherlands, as the name indicates, is low-lying territory, with one-quarter of the country at or below sea level. Many areas are protected from flooding by dykes and sea walls. Much land has been reclaimed from the sea, the Flevoland polder being the most recent example.

The Dutch Parliament (or Staten Generaal) consists of two chambers. The first, with 75 members, is indirectly elected and has limited powers. The second chamber, or lower house, is directly elected. Members of both houses serve a four-year term. Given the country's multi-party system, all governments are coalitions.

Industrial activity in the Netherlands predominantly consists of food processing, chemicals, petroleum refining as well as electrical and electronic machinery. It has a dynamic agricultural sector and is well known for its plants and cut flowers. The port of Rotterdam is the busiest in Europe, serving a vast hinterland which stretches into Germany and central Europe.

The Netherlands has a history of great painters. The 17th century was the age of the Dutch Masters, such as Rembrandt van Rijn, Johannes Vermeer and Jan Steen. The 19th and 20th centuries were no less remarkable for their high-calibre artists like Vincent van Gogh and Piet Mondriaan.

The Netherlands, the sixth-largest economy in the European Union, plays an important role as a European transportation hub, with a persistently high trade surplus, stable industrial relations, and moderate unemployment. Industry focuses

on food processing, chemicals, petroleum refining, and electrical machinery. A highly mechanised agricultural sector employs only 2% of the labour force but provides large surpluses for food-processing and underpins the country's status as the world's second largest agricultural exporter.

In the Netherlands, various phenomena are connected with human trafficking. As in International definitions of human trafficking, the Dutch law also contains a non-exhaustive list of acts that must at least be understood to fall under the definition of 'exploitation.' The legislature's aim in using this formulation was to leave room for the Courts to flesh out the concept of exploitation. Forcing a person to take out telephone subscriptions is an act that has also been defined as human trafficking by some Courts of Appeal and District Courts.

A great many NGOs are actively engaged in combating human trafficking at the National and International level. NGOs are still confronted with obstructions to cooperation with their counterparts and other country agencies. This cooperation often occurs on a case by-case basis without relying on National coordination and referral mechanisms.

One of the most important developments in recent years has been the growth in the number of investigative, administrative and financial organisations that collaborate in pursuing a comprehensive joint approach, which embraces not only measures to prevent and suppress human trafficking, but also to protect its victims. (9th Report of the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children). (2013).

1. EXTENT AND PATTERNS of CHILD TRAFFICKING in the COUNTRY

From the US TIP report [2017] on the Netherlands in which it is specified as a TIER 1 country the following information is indicative of the progress which the Netherlands is seen to have made on counter trafficking in a number of areas.

"The Government of the Netherlands fully meets the minimum standards for the elimination of trafficking. The government continued to demonstrate serious and sustained efforts during the reporting period; therefore, the Netherlands remained on Tier 1. The government demonstrated serious and sustained efforts by investigating, prosecuting, and convicting a significant number of traffickers and providing care for a significant number of victims. The government released a national action plan on child sex tourism and signed the first of 12 industry-specific covenants aimed at reducing the risk of human trafficking in supply chains. Although the government meets the minimum standards, the number of prosecutions, convictions, and victims identified reported by the government declined from the

previous year; the government did not report complete statistics for the reporting period.”

1.1 Is child trafficking recognised by the Government of the country?

Yes. The Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children monitors the response to a series of legislation in place to prevent, prosecute offenders and protect children against trafficking and sexual violence <https://www.dutchrappporteur.nl>

1.2 IF YES, in what ways?

In a plethora of ways. For example, In a recent report undertaken by the Dutch Rapporteur, seven groups of children were highlighted as being at particular risk of trafficking and not being disclosed in the wider data of the national statistics namely:

Children in the LGBT community, children with the eating disorder anorexia nervosa, children who join or wish to join ISIS, Children caught in Child Marriages, Children caught in domestic labour who are living illegally in the Netherlands.

Her report ‘Vulnerability up close’ in 2016, shone a light on the criminalisation of young Roma children, Syrian child-brides and children living illegally in the Netherlands who are required to work in households.

1.3 Is the issue of Child Trafficking addressed in the Government’s Report to the Committee on the Rights of the Child?

Yes

1.4 Is the State’s definition of a Child compliant with UN definition?

Yes.

2. DATA COLLECTION

2.1 Is there a Central National Registration system in the country for victims of trafficking?

Yes

2.2 If YES, where is it located?

CoMensha has been appointed as the official registration organisation of all identified possible victims of human trafficking in the Netherlands on behalf of the Dutch National Rapporteur. Information on the numbers of identified victims of

trafficking every year is delivered in the annual report of the Dutch National Rapporteur.

2.3 Is the data properly disaggregated by gender and ethnicity?

Yes. The Netherlands has made a strong effort in the realm of collecting disaggregated information on victims of trafficking by nationality, ethnicity, age and gender. The way that this has now informed ongoing work on understanding trafficking challenges in the Netherlands is captured in the following report to the UN Sustainable Development Goals committee.

2.4 What FORMS OF EXPLOITATION are identified?

Illegal activities/criminal (drugs/ distraction crime/social protection fraud) v.

Child marriage v

Illegal adoptions and Organ trafficking v

2.5 WHO is responsible for collecting this data?

CoMensa.

2.6 What are the challenges which they/ or other stakeholders identify in gathering CLEAN and reliable data?

The main challenge noted by the Report is that:

"The measurement of crime in general and trafficking in persons specifically is challenging because much of the conduct remains undetected and unreported. While there is data on the number of reported cases of trafficking worldwide, the 'dark (or hidden) figure' remains unknown.

Furthermore, the Dutch Rapporteur noted in 2016 that there are forms of criminal exploitation, where children are forced into street criminality, but it is not always treated as such. The child is arrested and punished as a criminal, but what is forgotten is that he or she may have been forced to commit crimes. The public prosecution service, the police and the municipalities must be better prepared to deal with that. Data around this area of trafficking is not currently well captured."

3. PROFILE OF COUNTRY AND ROUTES OF TRAFFICKING

3.1 Is this mainly a COUNTRY OF ORIGIN of victims of trafficking?

Not particularly – though there will be some countries to which victims of trafficking from the Netherlands – particularly amongst undocumented or poorly protected children - may be trafficked out of the country.

3.2 If YES, List the countries TO WHICH victims are reportedly trafficked?

There has been concern recently of some children being recruited into ISIS – see the 2016 Dutch Rapporteur report on ‘Vulnerability up close’

3.3 Is this mainly a COUNTRY OF DESTINATION for victims of trafficking?

Yes.

3.4 If YES, List the countries FROM WHICH victims are reportedly trafficked?

Inter alia, Romania, Hungary, Bulgaria, Nigeria, Guinea, Sierra Leone, China, the Philippines, and Vietnam.

Approximately 60 child brides arrived in the Netherlands between September 2015 and January 2016.

“The absence of specific measures makes Syrian child brides vulnerable not only to human trafficking, but also to sexual violence,” stated the Dutch National Rapporteur at the time in the report ‘Vulnerability up Close.’ *“These girls often find themselves socially isolated, which means that any abuse and exploitation can continue for a long time. There is a risk that they will eventually become domestic slaves or hidden women.”* [any footnote reference for the quote?]

3.5. Is this mainly a COUNTRY OF TRANSIT for victims of trafficking?

No, not mainly as the Netherlands is an origin, destination and transit country of human trafficking. However, it is a transit country for the UK, France, Germany, Italy and Spain. Of the 1561 victims of HT reported to CoMensha in 2014, 283 were minors (Dutch National Rapporteur, 2014). The actual proportion of minors is likely to be higher, as CoMensha registers the age of victims at the time of the report and not at the time when the human trafficking situation begins.

3.6 If YES, List the countries FROM WHICH victims in TRANSIT are reportedly trafficked?

Children from other parts of the world are trafficked in the Netherlands. Statistics from CoMensha show that trends of victims of human trafficking coming from other countries come from particular countries for a period of time. During the period 2005-2006 girls from Nigeria were recorded as disappearing from Asylum Centres. The numbers recorded were 32 girls in 2006 and 45 in 2007. Some were later found

to be working in prostitution. However, after 2006 the numbers of girls from Nigeria fell to just 10 in 2009. In 2012, children from Guinea, Sierra Leone and China also appear in the data collected. Recently children from Eastern European countries are also present in ever increasing numbers, with concern continuing to be present for Hungarian victims in the data.

Romania, Hungary, Bulgaria, Nigeria, Guinea, Sierra Leone, China, the Philippines, and Vietnam in 2013 victims were identified at Port and after exploitation in the Netherlands with victims also from other countries in Africa, Europe, and South and East Asia.

Women and children are subjected and identified primarily as being exploited in sex trafficking, and men and boys are subjected to various forms of forced labour, including in the maritime, agriculture, horticulture, catering, food processing, and cleaning sectors. Some victims were forced to commit crimes, including illegal narcotics trafficking. Domestic workers employed in the Netherlands remain vulnerable to forced labour, including by foreign diplomats. Groups vulnerable to trafficking include unaccompanied children seeking asylum, women with dependent residence status obtained through fraudulent or forced marriages, women recruited in Africa (Nigeria in particular) and Eastern Europe, and East Asian women working in massage parlours.

The US TIP Reports from 2014 – 2017 indicate clearly to the Dutch authorities that its territories in the Caribbean in the former Antilles, as well as in Bonaire, St. Eustatius, and Saba (BES) need to improve identification of victims and prosecution of traffickers, to continue to share best practices and lessons learned with other countries, in particular methods to uncover and respond to local sex trafficking of domestic victims and the importance of employing a self-critical approach to improve anti-trafficking results.

3.7 If YES, List the countries TO WHICH victims in TRANSIT are reportedly trafficked?

There is movement through Schiphol airport – however with the presence of the NiDOS unit specialising in child trafficking identification, this has been clearly reduced as a hub point for Europe. (NiDOS is a Dutch NGO, financed by the Ministry of Justice, with an independent Board & is responsible for all unaccompanied minor asylum seekers).

3. 8. Is there INTERNAL/Domestic CHILD TRAFFICKING reported to take place in the country?

Domestic trafficking of children does occur in the Netherlands and tends to involve Dutch children who are often the victims of *lover-boys*. Since the 1990s the *lover-boy* method has been used to recruit primarily underaged girls into prostitution and other forms of exploitation, such as financial and other criminal activities.

Girls and boys from other countries who are now resident in the Netherlands as foreign nationals or as those seeking asylum are also exploited in prostitution. Children are used as domestic servants, exploited in criminality, and boys and girls are also exploited in increasingly online proliferated pornography, used to conduct crimes and exploited economically in defrauding the state in State Protection, and in domestic work.

3. 9. If YES, List MAIN POINTS (towns/cities / regions) reported for Internal/Domestic Trafficking?

Not yet isolated

3. 10. Are there particular groups of children reported to be trafficked internally/Domestically? (e.g. Nationality? Ethnicity? Gender / Other groupings?)

This is an area which has concern raised, particularly around ethnicities which believe they do not have a great deal of protection available to them in the Netherlands (Roma, Hungarian and now various Asylum-seeking groups) More work is required to understand fully this phenomenon but the 'Vulnerability up Close' Report nominated these following clusters as of distinct under-reported concern.

The seven groups covered in this analysis are:

- Syrian child brides;
- Roma children;
- Children living illegally in the country who have to work in households;
- Children working in production chains;
- Children with the eating disorder anorexia nervosa;
- Lesbian, gay, bisexual and transgender children;
- Children who join (or wish to join) ISIS.

4. DATA AVAILABLE – STATISTICS

4.1 Are there official statistics recording the number of CHILDREN that have been trafficked TO or WITHIN the country? (if this is available for 2012 – 2015 or before?).

The registered numbers of victims from CoMensa is available from 2006. CoMensa only registered gender since 2003.

YEAR	NOS OF CHILDREN	SEXUAL EXPL.	MAL E	FEMAL E	NATIONALIT Y	ETHNICITY
2010	152		7	145	89 Dutch/ 63 Foreign	(besides the Netherlands)
2011	194 Includes 5 undefined in age, gender & expl.	124	36	153	129 Dutch 60 Foreign	
2012	221 (incl. 12 undefined)	112	41	168	136 Dutch 73 Foreign	Guinea, Sierra Leone Angola Romania
2013	247 (incl. 11 undefined)	109	48	199	161 Dutch 86 Foreign	Guinea Sierra Leone Mongolia
2014	271 (7 undefined)	127	53	218	144 Dutch 127 Foreign	Eritrea Guinea Albania Nigeria
2015	287 (3 undefined)	144	56	231	160 Dutch 127 Foreign	Afghanistan Vietnam Eritrea Syria

Info: National Rapporteur THB:

[https://www.nationaalrapporteur.nl/binaries/Slachtoffermonitor%20mensenhandel%202012-2016_Nationaal%20Rapporteur%20\(i\)_tcm23-285357.pdf](https://www.nationaalrapporteur.nl/binaries/Slachtoffermonitor%20mensenhandel%202012-2016_Nationaal%20Rapporteur%20(i)_tcm23-285357.pdf)

The National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children reports on the nature and extent of human trafficking and sexual violence

against children in the Netherlands, and on the effects of the government policies pursued.

In September 2017 the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence Against Children and the United Nations Office on Drugs and Crime (UNODC) presented a research report that reflected the first reliable estimate of the extent of trafficking in human beings in the Netherlands. The United Nations wants to apply this method in other countries as well. In the Netherlands, the estimated annual number of victims of human trafficking lies around 6,250. This is about five times higher than the number of registered victims, indicating that many victims stay out of sight of authorities and support agencies.

4.2 How are child victims of trafficking IDENTIFIED in the country?

There are a range of Agencies involved in identification including the Police, and Social Services – there is more attention being called for to supplement the work which the dedicated NIDOS team has developed at Schiphol airport. There has been some concern that with the recent ‘pressures’ of addressing asylum claims and dismantling ongoing smuggling networks by law enforcement and border agencies, that the work of locating and disclosing child trafficking has been undermined – with a dip in identification of victims noted in 2015.

There are large-scale facilities in the Schiphol Reception Centre, however a report in 2013 indicated that the children there seemed to be exposed to a high number of risks, but at the same time low level of protection; the system does not appear to have the possibility to protect the children from harm, trafficking and exploitation, as there is a high number of children disappearing and children at risk of developing emotional and mental health problems.

In general, the effectiveness of the protection system can be questioned, as a lot of risk factors for children are linked to the lack of a residence permit as well as the lack of provision of information, support and care after the child turns 18.

However as is indicated further in this questionnaire, there has been a revision of the Care Processes for trafficked children with the responsibility since 2016 having been devolved to the municipalities. GRETA (Group of Experts on Action against Trafficking in Human Beings) looked forward to seeing in the Dutch Rapporteur’s annual report on Trafficked Children in relation to how this is proceeding with regard to identification and subsequent safety measures.

In a Report submitted by the Authorities in the Netherlands on measures taken to comply with the Council of Europe Convention on Action against Trafficking in Human Beings, it is mentioned that the committee Azough has produced a number

of practical guides and roadmaps that help Youth Care Professionals in the identification and support of child victims, particularly addressing children with mental health problems. This approach focuses on an integrated approach between Youth Care Professionals and the Police.

Similarly, a number of child victims of trafficking are identified by the Police or in the Schiphol Reception Centre by Nidos or COA staff.

In 2016, the following additions were made by the Dutch Rapporteur on what needs to happen around protection following effective identification:

“human traffickers are inventive and are not averse to exploiting new opportunities if there is money to be earned from it. It is therefore important that known phenomena that might be related to human trafficking are also investigated from a human trafficking perspective and to remain alert to new phenomena that could have a connection with exploitation. Responsibility for this that extends to everyone with a part to play in combating human trafficking: Researchers, Police and PPS, NGOs, Municipalities, Community Teams, Social Workers and Judges.”

Groups that are found to be vulnerable and specifically targeted by human traffickers should receive priority and deserve the most comprehensive protection. Wherever possible, specific steps should be taken to ensure they receive that protection. In that context, it is important to develop a multidisciplinary approach designed to protect victims and apprehend and prosecute human traffickers. For that purpose, it is important to investigate whether the problems facing these groups are seen from a human trafficking perspective and whether enough is being done to ensure they are identified.

4.3 Who are the leads?

4.4 What are the difficulties in identification?

Responses to 4.3 and 4.4 are combined as follows:

As per other cases noted across the Seven Country Reports, difficulties include:

- lack of official papers as identification procedures require a concerted effort from multi-agency and professional engagement and reporting.
- training to look at the subject group through a trafficking vulnerability lens.
- failure to identify particular groups as particularly at risk is an area which the Dutch Rapporteur’s Report on ‘Vulnerability Up Close’ helped to highlight, calling upon a sustained multi-disciplinary and multi-agency effort to explore vulnerabilities and risk of Human Trafficking from Academics, Business, Judges, Police, Social Services

and Community Leaders. Current co-ordination is through NIDOS and the Ministry of Justice with research through leadership being supplied by the Rapporteur.

The Report stated that Human Traffickers are entrepreneurial and *on the move*, exploiting vulnerabilities where it locates them, so the State Bodies and Organisations tasked with protecting the Netherlands's children must remain vigilance, and have research appropriately deployed to look at rising vulnerabilities, and vulnerable groups, so that more effective protection is in place, and rapid detection of trafficking can be executed when trafficking occurs.

5. CAUSES OF CHILD TRAFFICKING.

5.1 Are there groups of children who are more frequently reported to be affected by trafficking TO THE COUNTRY? (nationality – ethnicity – other?).

5.2 If YES, List the groups.

Consistently, the largest proportion of child victims up until 2013 were Dutch nationals (Dutch National Rapporteur, 2013). Between 2007-2011, 59% of all reported child victims had Dutch nationality (Dutch National Rapporteur, 2014). In addition to West African countries and China, in recent years children increasingly come from Eastern European countries such as Bulgaria and Romania. (ECPAT, 2011). In 2012, NIDOS and the Dutch police reported a significant flow of Afghan boys travelling through the Netherlands towards Sweden. Suspicions were raised of HT and organised crime (ECPAT, End Child Prostitution and Trafficking, 2011).

However more recently the Dutch National Rapporteur has clearly acknowledged groups of children who are especially vulnerable to trafficking such as: Syrian child brides, Roma children, children living illegally in the Netherlands who have to work in households, children working in production chains, children with anorexia nervosa, LGBT children, children who join (or wish to join) ISIS and mentally handicapped children. In discussing children from the LGBT community the Rapporteur also chose to remind the Dutch Protection Services of the exploitation of youth and boys for sex – regardless of their preferred sexuality.

5.3 Can you name any PULL FACTORS that are reported to be furthering child trafficking to the country?

The readily available and legal prostitution market, proved a strong magnet for traffickers. However, Police reports indicate that traffickers exploiting Dutch nationals in The Netherlands rarely work in organised networks, whereas those involved in the forced prostitution of foreigners are known to work in small networks (US Department of State, 2010)

5.4 Can you name any PUSH FACTORS that are reported to be furthering child trafficking to the country?

The concerns noted in the US TIP report (2017) and GRETA Report (2014) and which inform the UN Sustainable Development Goals – and the UNHCR reports – the desire for safety and asylum which has rendered girls and boys at risk of trafficking exploitation, challenges around the lack of economic opportunities, gender-based discrimination and increasingly lubricated smuggling routes now further developed into the Netherlands for exploitation.

6. ASSISTANCE – LEGAL AND PROFESSIONAL

6.1 Has the Council of Europe action on Trafficking been ratified in the country?

Yes.

6.2 Is there a REFERRAL MECHANISM in the country?

Yes. It is available in a Dutch language website, and updated monthly.

<https://www.wegwijzermensenhandel.nl/>

The National Rapporteur collects data on all cases of trafficking and publishes a Report. Comensha, an NGO, receives information from all Law Enforcement Agencies and registers all those who are perceived as being trafficked in the country.

(Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings (GRETA and Committee of the Parties) Council of Europe F- 67075 Strasbourg Cedex France trafficking@coe.int www.coe.int/en/web/anti-human-trafficking)

Police and Youth-Help Organisations register child victims, but a trafficking case is not always recognised. Many children do not report/speak out when trafficked, especially if perpetrators are family members. (Dutch National Rapporteur 2015; www.nationaalrapporteur.nl/binaries/nationaal-rapporteur.mensenhandel.naar-een-kindgericht-beschermingssysteem-voor-amvs.2015_tcm23-34708.pdf)

Currently those from the Care Agencies are not obligated to inform CoMensa of those in their care. (Kaandorp and Blaak 2005). Therefore, the data published by CoMensa may not highlight the full extent of the problem.

CoMensha is concerned about the sharp drop in the number of reports of (potential) victims. By 2016, we received 1049 (potential adult and child) victims.

Fewer than in 2015, when 1321 (possible adult and child) victims were reported. And that was already a decrease compared with 2014, when 1561 (potential adult and child) victims were reported. This was a decrease of about 33% over two years. If this means fewer victims, then this would be a welcome development. But inquiry teaches that the decline is mainly due to a different prioritisation of the detection services (which are obliged to report to us), but also by stricter compliance with the privacy laws and regulations by organisations not obliged to notify us, such as Youth Care Institutions. The decline does not say anything about the number of actual victims.

The report submitted to UNODC in 2016 considers that some of the decline in reported numbers is due to considerable attention by recent Migration and Asylum cases and a crack-down on smuggling rackets by border force and policing which may have drawn resources away from attention on trafficking identification, within which child trafficking work sits. The Chairman of the Public Prosecutor's Office has commissioned CoMensha to take the initiative to investigate how it is possible that an increasingly perceived large group of victims is not in the picture- both as minors and adults - with the chain partners (including Police, SZW Inspectorate and the Royal Marechaussee). CoMensha expected to be able to report the Research in January 2018, but delayed until late 2018.

6.3 Are there LEGAL PROVISIONS to appoint a LEGAL GUARDIAN when a child victim of trafficking is identified in the country?

Yes. There are various treaties ratified by the Netherlands and other legally binding documents with regard to Children's Rights as well as trafficking, including the Convention on the Rights of the Child (CRC); the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPCRSC); the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol); the Convention concerning the involvement of children in armed conflicts; the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse; the Council of Europe Convention on Action against trafficking in human beings; the UN Convention against Transnational organised crime; the ILO Convention on the Worst Forms of Child Labour; the ILO Minimum Age Convention; the EU Directive on Trafficking in Human Beings; the Council Directive on the residence permit issued to third country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration who cooperate with the competent authorities.

6.4 If YES, is the Legal Guardian appointed immediately?

In the Netherlands all children are under custody (article 1:245 of Civil Code), meaning parental responsibility or guardianship. A child, who is separated from both parents and is not being cared for by an adult having such a responsibility by law or custom, is entitled to be appointed a Guardian (article 1:295 of Civil Code). In connection with the National Action Plan, the Board of Procurators General amended the “human trafficking directive,” which sets out policy guidelines for the purposes of investigation and prosecution and in which specific attention is paid to children who are victims of human trafficking.

For victims of trafficking, who report such crime and cooperate with the authorities, the B8 residence permit can be offered, only for the time the investigation is being conducted. Therefore, the B8-residence permit does not focus on the protection and best interest of the child but on the criminal proceedings.

Separated children between the age of 13 and 18 who are possibly or threaten to become victims of trafficking can be placed in a protected reception facility by NIDOS. It is criticised that there is no judge involved in the decision-making process to give a judicial review on the placement.

Guardians however think it is in the best interest of the child to place the children in the protected shelter and do not agree that the shelter has a closed and custodial setting. The limited possibilities after the child turns 18 are seen as a big problem because the programme can often not be completed in the protected shelter. Besides the protected shelter, (potential) victims of trafficking and exploitation are sometimes placed in crisis intervention centres which are part of the Dutch Youth Care system.

When a separated child’s asylum claim is in suspension and the Court can assume there is a temporary lack of parental authority, then the juvenile judge can appoint a temporary Guardian based on article 1:253r CC (Civil Code).

In case the child’s interests or health are seriously compromised, the Juvenile Judge may place the minor under the supervision of a Guardianship authority. This could happen a child under 12 is a victim of trafficking or the child’s parents have left for an unknown destination.

Separated children are under custody of the Guardianship body Foundation NIDOS which also has a pre-guardianship of the children, even before the Court decides on the appointment of the Guardian. A temporary Guardian from NIDOS is appointed, based on article 1:241 CC.

In so far as the law does not provide otherwise, Section 1:303 CC stipulates that, the Legal Guardian has the same competencies and obligations as a parent and

according to Section 1:245 paragraph 4 CC, should relate to the child, the administration of child's capital and representation in civil acts, at law and otherwise.

A Guardian's obligations include the care and responsibility for the child's mental and physical wellbeing; the development of the child following his/her capacity; the supervision of the Asylum procedure and the legal representation of the child. In general, a Guardian maintains a supervisory function –as a case manager- by contacting everyone involved in the life of the separated child and by outsourcing the daily care to third parties such as foster parents or social workers.

The GATE Report of 2013 highlighted specifically that the already mentioned announced revision of the policy for separated children, focuses on the Guardian's cooperation with the authorities for the return of the child to his/her country of origin and the need for information-exchange between the Guardian and the Migration authorities, constituting in that way a violation of the non-discrimination principle (article 2 of CRC), the specific role of the Guardian (article 5 and 18 CRC) and the Core Standard 4 for Guardians acting as advocates for the Rights of the Child.

6.5. WHO is responsible for appointing the Legal Guardian?

The Ministry of Justice following a court order and provided by the NIDOS Foundation.

6.6. WHAT are the responsibilities of the Legal Guardian?

Particular to the Dutch legal context is that all unaccompanied children have a Guardian from NIDOS Foundation. Its role is to arrange shelter, counselling, education, medical care and legal assistance for these children. In the protected shelter, a team of welfare workers, Guardians, and human trafficking Investigators work together under one roof.

NIDOS is an independent Guardianship Institution, appointed by the Ministry of Justice to find a specialised Guardian for each unaccompanied child. Guardians provide long-term continued care and have responsibility for the mental and physical wellbeing, as well as the on-going development of the child. These Guardians are typically Social Workers who have completed additional programmes related to caring for unaccompanied children. This training is provided and standardised by the Centre of Expertise on Human Trafficking and Migrant Smuggling (EMM) department of the Dutch Police.

6.7. What other provisions are provided for the Child? (e.g. social, educational, psychological, emotional, procedural, safe accommodation?) List all.

The beginning of 2015 saw the transition of responsibility for Social Care, Youth Care and participation of vulnerable groups in the Netherlands to local authorities. This includes the responsibility for care and support for victims of THB. Various reports now describe the responsibilities that municipalities have regarding shelter and support for victims of THB.

From interviews undertaken for the GATE Report of 2013, it emerged from a survey of various sample groups that the level of full social inclusion is difficult to assess, yet there appears to be a high level of inclusion in the Dutch system. Factors, which are believed to support the inclusion of children in the National Protection System, are the special department of NIDOS at Schiphol airport, in charge of early identification of victims of trafficking coming through the airport; the immediate appointment of a pre-guardian to identified separated children, both asylum and non-asylum seekers and the placement of a child in a foster family (40% of the children reside in a foster family).

However, there are certain elements of the system that facilitate the exclusion of separated children either in a direct or indirect way. The poor migration procedures, the lack of a decent future perspective and the threats against children regarding detention once they turn 18 - by the Return and Repatriation service, result in a number of children disappearing from the Care Facilities and therefore are left without the support of protective measures, shelters and residency permits.

In addition, placements in large-scale campuses which have been the routine response; lack of consistent policy in relation to the referral system for potential victims of trafficking to the different care facilities; lack of reflection period to victims of trafficking; lack of an ID-card for undocumented separated children; criminal procedures that do not focus on the child victim; care for childr victims who turn 18 linked to the migration procedure instead of the need for protection; administrative procedural rules based on which the judges do not take under much consideration the Guardian's view, in relation to the child's best interest, during the migration procedures (GATE REPORT 2013)

6.8. Are there LEGAL PROVISIONS to ensure that the child receives the treatment best suited to its needs? List all

Please see above 6:7

6.9. Apart from legal provisions, are there OTHER PROVISIONS to ensure that the child receives the treatment best suited to needs and circumstances? List all.

The National Referral Mechanism, a comprehensive document laying down responsibilities and procedures of agencies for providing protection for victims, was recently established to address several shortcomings of the existing system (from the Ninth Report of the National Rapporteur):

- Shortcomings in the protection of minors who are victims of domestic human trafficking
- Growing size of the visible population of victims – more and more agencies are being trained to identify (possible) victims of human trafficking and are starting to report them more meticulously.
- Descriptions of procedures for protecting victims of human trafficking were fragmented, not sufficiently accessible, not binding and incomplete.

The Ninth Report identifies correct treatment of victims as an aspect of victim protection requiring attention, and ECPAT's 2013 report states that, "the biggest concern is that there is not enough attention for the special position of child victims in all facets of the human trafficking policy ... the biggest concerns are about reception and care provisions for child victims of cross-border trafficking. The government seems to have rather less attention for the interests and needs of victims than for its own interests with regard to the implementation of a strict immigration policy." It is hoped that the National Referral Mechanism goes some way to addressing this.

Other provisions include:

- NIDOS Foundation Guardians for unaccompanied children, typically Social Workers who have completed additional courses and programmes related to taking custody of unaccompanied children with a different cultural background
- EEM of the Dutch police regularly provides awareness trainings for actors dealing with unaccompanied children
- Procedures for unaccompanied children dealt with in one office of the Immigration and Naturalisation Service where specifically trained staff members conduct the interviews.

However, access to reception, care and support facilities depends on whether the child victim is of Dutch or foreign nationality. A victim of foreign nationality without right of residence only has access to similar or the same facilities accessible to Dutch

child victims of trafficking under certain conditions. Support and care for foreign victims is not regarded as separate from their willingness to cooperate in Dutch criminal proceedings. Support and care after the reflection period depends on the willingness of the victim to cooperate and protection of child victims from abroad without right of residence depends on granting a residence permit. Victims can get a temporary residence permit through the B8 regulation if they file a report or cooperate in the criminal investigation or trial. The B8 regulation can provide victims and witnesses a temporary right of residence with care, medical assistance, legal assistance and livelihood. Victims may also start an asylum procedure but the requirements to be eligible for asylum are stringent for child victims.

6:10. Is there clear and adequate provision of trained interpreters available for the child at all points of interaction with the State?

International regulations and guidelines state that the protection of child victims should include making available interpreters and translators [1]. According to the Ninth Report of the Dutch National Rapporteur (2014), there has been no central funding for interpreting and/or translation services in the Netherlands since 1st January 2012[2]. However, an exception is made for the use of interpreting and translating services in women's shelters. The costs of using interpreters may also be reimbursed for victims who receive a benefit under the Benefits for Certain Categories of Aliens Regulations [4].

Non-central funding is also available. The tender contracts for categorical shelter provide that interpreters for foreign victims of trafficking will be paid. Foreign victims in Institutional residential accommodation can submit an application for payment of an interpreter to the municipality in which the centre is located. Under certain circumstances (there are five conditions) applications can be submitted for foreign victims who receive non-residential care to the 'administrative centre for interpreters for non-residential victims of human trafficking.' CoMensha was allocated financing by the Ministry of Health, Welfare and Sport for this facility on a one-year trial basis until 1 January 2014 with a view to establishing the demand for interpreting services among social workers and victims of human trafficking. The National Referral Mechanism should also provide arrangements for interpreting services.

6:11. Is information available to the child at point of entry, to the risks of being trafficked as an unaccompanied or accompanied minor – in the languages of the key identified groups at risk? (question to Immigration / border Police / Stakeholding NGOs).

It is difficult to provide information at the point of entry since borders in Europe are often unmonitored, unpoliced. Children entering the country may not even be aware they are trafficked. This is especially significant for Roma children coming from Balkan countries, and is further complicated by the fact that often children may be under the guidance of family members, so even when borders are manned by police, children may remain unaware they are trafficked. The border police are stakeholders with the lowest number of victim identifications.

There are some roaming teams of border police who try to spot cars with young people, or cars that seem suspicious.

6.12. Are there OTHER PROVISIONS to guarantee that child victims of trafficking are being cared for by adequately trained professionals? (e.g. social, educational, procedural, safe accommodation?)

There is a substantial legal framework to provide adequately trained professionals for child victims of trafficking, specifying that the persons that work with child victims of sexual exploitation and child trafficking must be specially trained for this task (Article 8 paragraph 4 OP-34, Article 10 Palermo Protocol, Article 23 paragraph 3 EU Directive on combating the sexual abuse, sexual exploitation of children and child pornography, Article 18 paragraph 3 EU Directive on Trafficking in Human Beings, Article 3 CRC).

6.13. Are there PROFESSIONALS TRAINED to be aware of a) the special needs of the child? b) the RIGHTS of the child? c) gender / ethnic issues?

Processes are in place such that NIDOS Guardians and COA mentors look at the specific needs of the child victim, have meetings with other representatives, and decide together whether to make changes to interviews with them e.g. breaks, pace of meetings etc. In addition, NIDOS attempt to match children with Guardians as close to their ethnic background as possible so that they are better aware of children's needs. Comensha has developed an online package of training for early indicators of child and adult trafficking, which is gaining interest.

6.14. Have measures been taken to ensure appropriate assistance for THE FAMILY of a child victim of trafficking? (e.g. the right to receive information about possibilities of support, protection, legal advice, legal aid, outcome of action taken on behalf of the child?)

Not much information appears to be available on this - it is relevant that in some cases families have been complicit in the trafficking of their child e.g. sending their child to the Netherlands to work in exchange for payment. There are also cases in

which families are not complicit, but there is little information about assistance for families in these cases.

6:15. Where are the pinch points being experienced in all of these processes. Field Workers and DR?

Apart from the fact that resources and training is currently stretched we have not been able to resource this response.

7. PROVISION – PROTECTION OF THE CHILD

7.1 Are there LEGAL PROVISIONS in the country that automatically grant TEMPORARY ‘right to remain’ if the child is a foreign national?

Yes. see 6:7 above.

A victim who, when trafficked, was a minor could obtain a special residence permit (up to 2013). If the age of the victim is in doubt then the Convention of the Council of Europe on the protection of Children against Sexual Exploitation and Sexual Abuse, in article 35, paragraph 3, states that in such cases the victim should initially be treated as a minor. Although this permit has now been abolished unaccompanied children still have a right to obtain shelter, education and health care.

7:2 What form does this take?

Chapter B8 of the Aliens Act affords both adults and children the right to residence and access to care and relief. This provides them with the right to stay in the country on a temporary basis while their case is being investigated and prosecuted.

(Kaandorp and Blaak 2005; De Pater, 2013).

7.3 If YES, is the child entitled to stay in the country on a valid legal basis? (is there a time limit?)

The victim is given a 3-month period of reflection in order to give them the time to determine what to do about their situation. During this time the victim is able to receive any care or support deemed necessary. Only the police can grant a period of reflection under B8 regulation. The length of stay is tied to the victim filing a report or providing the authorities with a statement, which will form part of the proceedings.

If a victim has filed a report in criminal proceedings and in addition has held a B8 permit for three years and the proceedings against their perpetrators have led to a criminal conviction, that victim is allowed to continue to stay in the country by virtue of Article 3:52 Vb jo B16/4.5 Vc.

Failure by the victim to cooperate will result in the victims' rights of residency to be lifted.

7.4 What happens when the child turns 18 YEARS of age?

This is seen as something of a challenge with the GATE report of 2013 noting that care for children victims of trafficking who turn 18 was still linked to the migration procedure instead of the ongoing need for protection. We are looking forward to clarification of this part of the process as the UN Year focussing on the needs of Children in migration and trafficking is completed.

7.5 Is the CONDITION OF STAY in the country linked in any way to a child's willingness to testify in criminal proceedings?

If under 18 the child has an automatic right for protection until reaching the age of majority.

Housing

What is the provision of protection for the child if unaccompanied, in terms of shelter, education , health care?

This is addressed in 6:7 with NIDOS [here it is in upper case?]and Municipalities having care of children with a focus on protection and integration.

7.6 Are RESIDENT PERMITS durable until a 'sustainable solution' for the child has been found?

Yes, see sections below.

7.7 What is the process of identifying those who are on the transition of Puberty /Adulthood – over 18.

Standardised EU procedures including a multi-agency professional analysis of psychological, cultural as well as x-ray data is deployed for this. This is an area which the EU is seeking to lift.

8. PERMANENT / TEMPORARY RESIDENCY - DATA

8.1 Is there data for children who have RECEIVED temporary or permanent permits for residency in the country? If YES, fill in the chart:

Year	Nos	Victims THB	Male	Female	Temporary	Permanent
2010	700	59	540	160	ND	ND

2011	485	63	403	82	ND	ND
2012	382	81	285	97	ND	ND
2014	960		792	173	ND	ND
2015	3863		3182	681	ND	ND

Unaccompanied children are always taken into care until the age of 18.

Since 1998 (Koppelingswet) the Data Connecting Act, no children are deported until their 18th birthday.

In 2007, the Dutch government decided on a General Pardon Arrangement: All foreigners who could prove they lived for six consecutive years or longer in the Netherlands received a permanent residential permit.

This arrangement is only available for a few months for adults, after that a much stricter asylum law came into place.

Children are still special cases, they are dealt with under the Children's Pardon Arrangement:

Children (younger than 19 years) who have lived in the Netherlands continuously for five years or more will be granted a residence permit. There are a number of strict rules attached to it. For example, their asylum application must have been filed before they were thirteen, and they must have had contact with the Immigration Office all along.

8.2 Are there LEGAL PROVISIONS for THIRD COUNTRY SETTLEMENT of a child victim? (In cases where the safe return of a child to his/her own country of origin and the integration in the country of destination are not possible, or where these solutions not be in the best interests of the child).

A child is part of its family or is an unaccompanied minor. A child victim of trafficking will get a temporary residence permit until the age of 18 and will receive a permanent residence permit under certain circumstances.

A trafficked child victim will receive a temporary permit of residence until reaching the age of 18. Before that date, a permanent decision will be taken by the Government about a permanent residence permit.

A child victim belonging to a family who has no right to remain in the Netherlands, is placed in a Freedom-Limited Location; this is a shelter location (a house) where foreign nationals who have to leave (under a freedom-restricting measure) can work on their departure. These families can also be placed in a family location until the

departure takes effect, or the youngest child has reached the age of 18 years. This is only allowed if adequate youth care is provided in the country of return.

9. REPATRIATION – DATA

9.1 How many child victims of trafficking have been REPATRIATED TO THEIR COUNTRY of origin? (is there official data recorded?).

No, There are no returns recorded. No numbers of returned children are published.

Year	Nos	Male	Female	Nationality	Country
2010	ND	ND	ND	ND	ND
2011	ND	ND	ND	ND	ND
2012	ND	ND	ND	ND	ND
2013	ND	ND	ND	ND	ND
2014	ND	ND	ND	ND	ND

Unaccompanied minors are taken into care. Children younger than 15 are placed in a foster family, children over 15 in a Youth Centre. In the Netherlands 13 organisations work with child victims of trafficking, two are specialised in this work.

Families with children who have no right to remain in the Netherlands are placed in a Freedom-Limited Location. This is a shelter location where foreign nationals who are obliged to leave (under a freedom-restricting measure) can work on their departure. Families with underage children, can be placed in a family location until the departure takes effect, or the youngest child has reached the age of 18 years. This is allowed only if in the country of return adequate youth care is provided.

9:2 Is there further comment from NGOs about what is occurring with regard to protection and repatriations. If so who are the lead organisations in voicing this concern?

Victims of human trafficking are entitled to protection and, in some cases, also the right of residence. However, not all victims are able or willing to remain in the Netherlands and the rules pertaining to their return to their country of origin (or repatriation to a third country) then come into play. The Netherlands is obliged by a number of International Agreements to arrange the safe return of victims. If the Netherlands returns a victim to another country, the return should preferably be voluntary and with due regard for the rights, security and dignity of the individual. The return of a child victim of human trafficking is not without its risk. Return is only allowed if adequate child support is in place in the country of return.

Under these agreements, it is not enough to arrange the safe return of a victim to the country of origin (or a third country); victims must also be offered protection and facilities for their reintegration in the country to which they are returning. Child victims will not be repatriated to a state if an assessment of the risks and their safety shows that their return will not be in their interests. In 2010, the IOM published the results of an exploratory study which showed that women, children and young adults are particularly at risk of being re-trafficked. According to the Report, which was based on 79 situations known to the IOM in which a victim had been re-trafficked, victims are often re-trafficked within two years of escaping or being freed from a human trafficking situation. According to the report, victims who are returned to their country of origin are particularly at risk of human trafficking if, for example, the economic and social situation in that country is still underdeveloped. Other underlying factors mentioned in the IOM report include the absence of a family or social network or a lack of appropriate assistance, or factors that make it difficult for victims to reintegrate into the domestic situation, such as drug or alcohol addiction or psychological and psycho-social problems.

In the Netherlands, the IOM provides assistance for the voluntary return of foreigners, including victims of human trafficking. The assistance is provided as part of the project Return and Emigration of Aliens from the Netherlands (REAN), which is designed to enable people to return safely to their country of origin. For a specific target group like victims of human trafficking, the IOM works with government agencies, municipalities and various NGOs, including FairWork, the Foundation of the Religious against Trafficking in Women (SRTV) (no longer active and since 2016 named SISTERWORKS) and CoMensha. Simply arranging the journey is often not enough to guarantee the protection of victims (or of their families and the social workers involved). In view of the vulnerable position of victims, the IOM provides

personal assistance in the country of origin, with a heavy emphasis on their reintegration. For example, it provides financial assistance in the form of a grant to help with reintegration, which is generally provided before the victim's departure. The IOM also offers other forms of support in the country of origin, ranging from tracing family members and arranging shelter (for victims who say they do not wish to return to their family for reasons of safety, for example) to arranging education or help in finding work. Where applicable, the IOM also monitors the support victims receive in their reintegration for up to six months after their return to the country of origin.

The IOM looks at the possibilities of care and for psychological, legal or medical guidance. It works with organisations such as the Repatriation and Departure Service, the Central Agency for Reception of asylum seekers, the Dutch Refugee Council, the Immigration and Naturalisation Service, the Alien Police, NGOs, Embassies, Migrant and Diaspora Organisations.

Furthermore, the IOM signed a covenant with Fairwork, SRTV and CoMensha. This enabled these organisations to use each other's Networks to strengthen their information network and support better the child.

In the Netherlands there are many projects focusing on facilitating reintegration such as: Return and Emigration of Aliens from the Netherlands (REAN), Reintegration Project Return (HRPT), Return and Reintegration Regulation (HRT), CRRS (Counselling Return and Reintegration Support), Reception and Reintegration of Afghan Nationals to Afghanistan, Reintegration assistance to Sierra Leonean migrants returned from the Netherlands, Return Migration and Health II, Return Migration and Health III, Randstad Return Initiative, Return Initiative 'Irregular Migrants' (RIIM), AVR NC Assisted Voluntary Return by Native Counsellors, AVRR Iraq, Assisted Voluntary Return from Detention (AVRD I + II), Counselling, Return and Reintegration of (ex) Unaccompanied Minor Migrants (UAM).

A number of other NGOs also provides assistance in the repatriation of victims of human trafficking. A common feature of these projects is the cooperation with the victim's country of origin. The successful return and reintegration of victims calls for cooperation between countries and organisations. There is a review of the activities of ENPATES, a collaborative project involving NGOs in various disciplines (not exclusively those involved with return). National and transnational referral mechanisms would enhance cooperation among all the relevant stakeholders by clearly describing their tasks and responsibilities in relation to the return of possible victims. Monitoring victims after their return is an essential element of the process, for example to prevent revictimisation, and is a responsibility of every organisation involved in the return of a victim. However, there is no overarching instrument that

specifies the processes that need to be monitored and the roles of the relevant parties.

9.2.1 Are there LEGAL PROVISIONS to guarantee that a RISK ASSESSMENT is made prior to repatriation in order to establish whether or not this is safe?

Please note the fuller response in 9.3

9.3 Are there OTHER PROVISIONS (social, procedural, educational, psychological, safety) to guarantee that a RISK ASSESSMENT is made prior to repatriation in order to establish whether or not this is safe?

In April 2016, a new working method was developed which, in short, focuses on multidisciplinary risk assessment. The goal of this risk assessment is to determine if the child can be expected to file a complaint, cooperate with an investigation, or is able to tell his or her story. This multidisciplinary risk analysis is executed by several organisations: NIDOS Foundation, the Central Agency for the Reception of Asylum Seekers (COA), JADE Foundation, the Centre of Expertise of Aliens, Identification and Human Trafficking (EVIM), the Immigration and Naturalisation Service (IND) and the Expertise Centre for Human Trafficking and Human Smuggling (EMM). These organisations work together intensively to interview the child over the space of a few weeks, assessing the medical, physical, cultural, and religious aspects of the child. The multidisciplinary risk analysis is also an instrument to determine what kind of risks the child may face if repatriated. Furthermore, the results of the analysis can (potentially) function as evidence in the immigration and criminal procedures.

Similarly, The Council of Europe Convention on Action against Trafficking in Human Beings, Article 16.5 states that each party is responsible to adopt legislation to improve reintegration and avoid re-victimisation. This should be done through effective risk assessment and safe reintegration into the education system and family environment/shelter. Article 12 of Council Directive 2004/81/EU in 2004 states that 'The third-country nationals concerned shall be granted access to existing programmes or schemes, provided by the Member States or by non-governmental organisations or associations that have specific agreements with the Member States, aimed at their recovery of a normal social life, including, where appropriate, courses designed to improve their professional skills, or preparation of their assisted return to their country of origin.'

9.4 If YES, WHO is responsible for the risk assessment in the country of destination?

There are a number of Dutch organisations that actively participate in the so-called HOME project, including Maatwerk bij Terugkeer (a mediation agency for returnees), FairWork, Fier Fryslân and Caritas International in Belgium. The HOME project aims to address the lack of knowledge and cooperation among victim support organizations and other NGOs in the countries of origin that provide help for victims on their return (for example, by improving shelters in those countries). By developing and sharing knowledge, the intention is that agencies in the Netherlands and Belgium that are engaged in facilitating the return and reintegration of victims from other countries will be able to assess and improve the process of the return to and reintegration in the countries of origin.

Improving the procedures for departure from the Netherlands and the procedures for facilitating reintegration in the country of origin calls for close cooperation between the relevant organisations in order to overcome the fragmentation of knowledge and tasks. The project is building on existing projects and methods and the knowledge already possessed by the organisations involved in the project. One of the project's deliverables will be a checklist for pre-departure assistance in the Netherlands and post-arrival assistance in the country of origin. Maatwerk bij Terugkeer's partners in Nigeria and Sierra Leone are using their involvement in the development of the checklist as a learning process. The HOME project ran from June 2013- June 2014.

The need to gather and expand knowledge about the return of foreign victims is also stressed in the professional learning community established by Fier Fryslân. This project was launched in response to the small number of victims who return to their country of origin. Return programmes are possibly hampered by difficulties in raising the subject of return with victims, insufficient knowledge of the target group among return organisations and a lack of awareness of the types of assistance that can or cannot be provided in the countries of origin among the support organisations. Accordingly, at the end of 2012 a group of aid organisations established a professional learning community to share their expertise in relation to the problems connected with return and with the ultimate aim of improving the counselling for foreign returnees in the Netherlands.

The following areas are yet to be addressed – however there has been fulsome capture of the material from our RENATE representative of the initial sections.

9.5 Are there LEGAL PROCEDURES in place to ensure repatriation is in the best interests of the child?

Yes. Dutch Parliament document, April 2005, kst-27062-2

9.6a Are there OTHER PROCEDURES (social, procedural, educational, psychological, safety) in place to ensure that repatriation is in the best interests of the child?

Yes.

9.6b What is the Criteria being used?

Unaccompanied children are taken into care. Children younger than 15 are placed with a foster family, children over 15 are placed in a Youth Centre. In the Netherlands 13 organisations work with child victims of trafficking, two are specialised in this work.

A child victim of trafficking will get a temporary residence permit until the age of 18 and will, receive a permanent residence permit under certain circumstances.

Children are dealt with under the Children's Pardon Arrangement: Children (younger than 19 years) who have lived in the Netherlands continuously for five years or more will be granted a residence permit. There are a number of strict rules attached to it. For example, their asylum application must have been filed before they were thirteen, and they must have had contact with the Immigration Office all along.

A child victim of trafficking belonging to a family who has no right to remain in the Netherlands is placed in a Freedom-Limited Location; (see 8.2)

9.7 Are there LEGAL PROVISIONS to ensure that repatriated children are received in the country of origin by an APPOINTED responsible member of the social services of the country of origin and/or the child's parents or legal guardian?

Yes.

10. VICTIM ASSISTANCE

10.1 What Institution or Organisation is responsible for RECEIVING children that are being repatriated from the country of destination to the country of origin?

The International Organisation for Migration undertakes some of this work. However the bilateral arrangements required for this vary from country to country and we need to elaborate further the information concerning this.

The Dutch Government has succeeded in creating structural, bilateral cooperation with many countries of origin such as Nigeria, Romania, Bulgaria, Hungary, Angola, Armenia, Azerbaijan, Georgia, Peru and Syria. If a child victim? returns, CoMensha has links with the country of origin through a Network of Social Organisations to ensure the first steps towards reintegration are implemented. In 2014 a social map was constructed by all NGO partners in the field. In 2018 this list will be updated.

10.2a Are there LEGAL PROVISIONS in the country of origin to ensure that (repatriated) child victims of trafficking receive long-term care and protection?

These will vary from country to country. Children are normally cared for within the Netherlands until such time as they reach maturity.

In some countries, such as Hungary, it is reported that despite Dutch effort, there are no safe shelters. This fact makes it more difficult to protect and counsel victims on their return. Scharlaken Koord (A member of the Christian Aid Organisation Tot Heil des Volks) is exploring ways of improving the system of shelters in Hungary.

10.2b What form does this take?

More work on this needs to be undertaken, but the following section does throw light on this area of research.

Child victims are taken into care by the organisation named Nidos. All children are assigned a Guardian. Children younger than 15 are placed with a foster family; children over 15 are placed in a Youth Centre. In the Netherlands 13 organisations work with child victims while two specialise in this work.

The standard methodology for unaccompanied children, which has been specially developed is not considered sufficient, now that the guidance of possible victims of trafficking is complex and poses many challenges. For the daily supervision of children in the protected shelters a specific methodology has been developed. The children learn skills similar to what Dutch young people have already gained in earlier stages of life. There are also additional tasks for them such as adapting to a unfamiliar/new culture; dealing with the pressure of traffickers; processing traumatic experiences sometimes copyin with the loss of relatives.

A problem is that the methodologies are developed separately from each other.

The Central Agency for the Reception of Asylum Seekers (COA) is responsible for the methodology development, the implementation is done by Jade Foundation. NIDOS was involved in the development of the methodology (written information NIDOS, 13 May 2015). The development of the methodology specifically for victims of trafficking in human beings was part of the pilot between 2008 and 2010. Pro-

Education developed this methodology with COA staff and shelter institutions. The pilot phase ended in 2010. The guidance method that is currently being used has been revised in the EFF project. This pilot started in 2011 and ended in 2013. In 2013, the employees were trained in the new methodology which focuses on the education and guidance of the young people.

The choice was made to work with the presence approach and the competence model. The presence approach means that mentors focus on the present, to support the youngsters in their pursuit of recovery and autonomy in the future. Empowerment also plays an important role, where specific attention is paid to finding internal strength of the young person as well as external resources. The competency model 'assumes that someone is well if he/she has sufficient knowledge and skills to perform daily duties. During their stay in the shelter, the young people have to learn a lot of practical, socio-economic and cognitive skills. "In addition to the competency model and presence approach, the supervision methodology also explicitly focuses on the safety and protection of the victim."

In order to improve further safety and protection, a three-phase model was chosen in the 2013 review of the methodology. This three-phase model consists of the phases of 'getting used to', 'living' and 'departure.' Ideally, the child goes through these three phases in six to nine months. For each child, a plan is drawn up for each phase. The criteria to proceed to the next phase are clear and transparent.

Protection within the three phases:

The first phase starts as soon as the child arrives in the protected shelter. In this phase, the safety and protection of the child is at the forefront. The child is given time to recover from a possible traumatising period. A mentor works with the child. In this first phase there is also the possibility to talk about reporting trafficking to the police. The mentor talks with the child about possible consequences of filing a police report and encourages the child to talk with the police.

In the second phase, the child learns to deal with freedoms on the basis of concrete goals and to function independently. One of the criteria from second to the final stage is that 'the young person is aware of the exploitation situation in which he/she might end up and that the child shakes off the future image that the trafficker had outlined.' In the second phase, possible return to the country of origin is mentioned for the first time.

The third phase is dedicated to departure - either by follow-up care or to the country of origin. If the child moves on to the follow-up care, it is decided if he or

she has the skills to reside there. A child who returns to his/her country of origin will always be accompanied.

(information from: www.nationaalrapporteur.nl/binaries/nationaal-rapporteur.mensenhandel.naar-een-kindgericht-beschermingssysteem-voor-amvs.2015_tcm23-34708.pdf)

10.3 Are there OTHER PROVISIONS in the country of origin to ensure that (repatriated) child victims receive long-term care and protection? (e.g. social integration, Safe accommodation, Security, Food, access to Education, Health Care, Psycho-social support, Legal assistance, Social services etc.

Yes. Unaccompanied foreign children are in a vulnerable position, especially if they are victims of human trafficking or are at potential risk. Therefore, it is established in Dutch law that all victims of human trafficking are offered protection by the Dutch Authorities, regardless of their willingness or ability to cooperate in legal proceedings. The reception and care of the child in the Netherlands is guided by four basic principles that derive from the UN Convention on the Rights of the Child:

- No child should be discriminated against
- All actions concerning children, should be taken in the best interests of the child
- Every child has the right to life and development
- Participation of children is paramount

An unaccompanied child is taken to a Central Reception Location where a multidisciplinary approach is taken to assess and address the child's needs. In theory, vulnerable children are identified by Nidos or COA staff in the Central Reception Location and referred to the Protected Reception facility within 24 hours. At this point the child is also reported to CoMensha as a potentially trafficked victim and an application for Guardianship is submitted by NIDOS to the courts.

Having been transferred to a Protected Reception Facility, the child is allowed time to recover and consider whether to claim asylum, report to the police or cooperate in the investigation in another way. This reflection period usually lasts for a maximum of three months. In the best interests of the child's safety, the advice is not to leave the shelter without prior permission and with a member of staff. (this additional security may explain why disappearances from protected shelters are incredibly rare in comparison with other available locations in the Netherlands).

If during this recovery time, the child chooses to claim asylum then guidance is given through a three-week 'Rest and Preparation' period. During this time, a series of interviews and assessments are conducted by representatives of various organisations to determine the kind of help, care, and shelter is needed. All interviews and procedures occur in one office of the Immigration and Naturalisation Service (IND) buildings, where specifically trained staff members conduct the interviews. Recently, a pool of Lawyers with particular expertise working with (trafficked) children has been established. The Courts have not appointed any specialised judges.

10.4 If YES, WHO is responsible for conducting the needs assessment?

The multidisciplinary needs analysis is performed by several appointed organisations:

- NIDOS, which welcomes all unaccompanied children and explains upcoming procedures; Monitors the child's wellbeing and answers any questions; establishes what additional aid the child will need when meeting other representatives to ease the process (translator, additional/frequent breaks, additional members of staff present).
- Central Agency for the Reception of Asylum Seekers (COA) which meet regularly to discuss and assist with lots of practical issues; will inform house-rules and regulations for protected reception centre; each about public transport and food preparation.
- VP (Aliens Police) which tries to establish the child's identity.
- Immigration and Naturalisation Service (IND) which informs about asylum procedure.
- Municipal Public Health Service to provide a medical check such as TB screening (important as communal living facilitates the spread of this disease).
- Medifirst representatives, which also provide medical checks.
- Asylum seekers Health Centre representatives, which provides additional medical advice for child
- Lawyer, providing legal advice and prepares for an asylum interview.
- Dutch Council for Refugees, which also provides legal advice and prepares for an asylum interview

-
- International Organisation for Migration representative, providing information about independent/voluntary return to country of origin.
 - Religious leader, providing spiritual guidance.

These organisations work to encompass the medical, physical, legal, cultural, and religious aspects of the child. There is a wide range of involvement from both governmental and non-governmental organisations in the identification and support of victims. If there is even the slightest indication that a child is a victim of trafficking, then prompt assistance is given. Similarly, the child is offered a psychosocial diagnosis in order to determine the care needed. The diagnosis can also help to establish whether a possible victim is psychologically capable of making a statement with a view to the prosecution of the offender(s).

An interesting point surrounding the experiences of children living in these protected receptions, is that in the space of a few weeks they meet many individuals and receive much information. They often have difficulties in differentiating between the roles and responsibilities of the many actors they meet. They can feel overloaded with information to the point of adding to the pre-existing confusion. Perhaps this could be improved by: streamlining the process further (combining meetings or improving collaboration between the members of the healthcare team), extending the period of ‘rest and preparation,’ or moving to a more *need-to-know* basis.

10.5 Which Organisations and Departments of State are responsible for the monitoring repatriated Children?

Currently, the monitoring of a trafficked child in the Netherlands is a multidisciplinary effort between multiple agencies who have continual contact with the child (for example the appointed NIDOS Guardians and COA mentors are responsible for overseeing this progress). This existing monitoring system is well-intentioned and beneficial but somewhat *ad hoc*.

Some agencies in the Netherlands have succeeded in taking the first steps towards a more standardised monitoring system of (former) unaccompanied children in the Netherlands. For example, the Hit Foundation, in co-operation with other reputable organisations including NIDOS, initiated the EU-funded research project, “Monitoring Mechanism for Returned Minors” (MRM). This project aims to develop a competent monitoring instrument, contributing to a more sustainable and safer return for unaccompanied children. This project is useful to an extent. However it does not take into account the views of those who settle in the Netherlands. In addition, there are several on-going examples of European co-operation such as: the setting up of child-specific country of origin reports by UNICEF Netherlands; the

creation of an international helpdesk for Guardians on 'Dublin' cases; the European co-operation on the reception of unaccompanied children in families by NIDOS.

NIDOS also worked with a Dutch university to create the 'Unaccompanied Minor Monitor' (AMA) which aims to measure the wellbeing and development of unaccompanied children. The AMA encourages children to reflect on position, functioning, health and other needs. Another important tool is the NIDOS' 'World Cafes' which comprise of informal group discussions where children and their Caregivers discuss ideas, concerns and expectations surrounding their experiences with a researcher.

The monitoring systems exists, with cooperation between different agencies appearing to come into existence spontaneously and through individual initiative. A number of reports state that often the final responsibility falls on the shoulders of the NIDOS Guardian to continually assess the child. However there are no guidelines as to how often or in what way the child should be assessed. This may be improved through a more standardised and professionalised monitoring system like repeat questionnaires or weekly progress meetings.

With regard to repatriated children, monitoring becomes more difficult. The Dutch Government has succeeded in creating structural, bilateral cooperation with Nigeria, Romania, Bulgaria, Hungary, Angola, Armenia, Azerbaijan, Georgia, Peru and Syria. If a child is repatriated, CoMensha has links with the country of origin through the National La Strada Agency or other organisations to ensure the first steps towards reintegration are implemented. The cooperation facilitates the creation of appropriate and safe shelters, mobilisation and strengthening of NGOs, improvement of national action plans against human trafficking and development of better institutional structures to support and monitor implementation. Each country has slightly different goals. For example, in Romania and Hungary the aim is to improve shelter, interdisciplinary cooperation and the legislation for victim protection. Whereas in Nigeria, the Dutch Law Enforcement agencies provided training for NAPTIP and other agencies such as the Nigeria Immigration Service Training which emphasises the importance of victim-sensitive and rule-based approaches to trafficking.

As mentioned already, some countries like Hungary have no safe shelters, which makes it more difficult to protect and counsel victims on their return. Scharlaken Koord (A member of the Christian Aid Organisation Tot Heil des Volks) is currently exploring ways of improving the system of shelters in Hungary.

Once a child returns to her/his country of origin, CoMensha coordinates that return and reintegration in cooperation with different organisations. There is little monitoring of these children unless they return to the Netherlands.

11. GOVERNMENT POLICIES and ACTION PLAN for PREVENTION

11.1 Has the Government adopted a NATIONAL ACTION PLAN on Trafficking in Human beings?

Yes, *Action Plan 2011–2014*.

For the period 2011–2014, the Dutch government instituted the “Government-Wide Approach to the ‘Loverboy’ Problem: Action Plan 2011–2014. ‘Loverboy victims’ is a term used to refer to Dutch underage female victims who are trafficked by their so-called lovers., Social Workers have interpreted the term in various ways. According to the Action Plan report, ‘considerable efforts have been made in the areas of prevention, investigation and prosecution in the last few years [in connection with the ‘loverboy’ problem]. Various prevention projects have been started, curricula have been developed for primary and secondary schools, films have been produced and social media has been used for prevention campaigns. . . . Progress has also been made in relation to the investigation and prosecution of offenders. For example, in a two-year pilot project in Rotterdam, the police are developing innovative methods for establishing contact with victims and offenders, such as taking part in online chat sessions to investigate who is initiating contacts with underage girls and how they are doing it.’

There is a point of interest on the nature of the Dutch Law on Trafficking which has some variation within it from other explications of the Law by other Nations which may prove of interest for those reading this work.

The Dutch definition (Article 273f of the Dutch Criminal Code (DCC) is predominantly, though not solely based on the Palermo Protocol. Article 273f DCC includes aspects that are not informed by the Palermo Protocol and are based on an older International Instrument, for instance Article 273f (1)(3) DCC considers as trafficking the recruiting, taking or abducting of a person with the intention of inducing that person to make himself or herself available for prostitution in another country. Until recently, neither means nor the intention of exploitation was required. However, in 2016 the Dutch Supreme Court ruled that the intention of exploitation is actually a ‘latent’ part of this subsection of the Dutch definition. This means that since this ruling, the Dutch definition of human trafficking changed and has (essentially) become narrower.

11.2 Does the National Action Plan include SPECIAL PROVISION ON CHILDREN?

Yes. This needs further development See below 11:3.

11.3 Are there other NATIONAL ACTION PLANS in force that are relevant for the protection of Child Rights? (e.g. Action Plans on child labour / street children / commercial sexual exploitation? Other?)

The Netherlands has taken numerous measures to combat (sexual) exploitation of children. In the past seven years, a Nationwide Action Plan combating the practice of so-called 'lover-boys' has been implemented (human traffickers exploiting vulnerable girls through means of a feigned 'love' relationship). This encompasses various measures aimed at prevention, prosecution and the protection of victims. These measures range from preventive awareness-raising in social media campaigns, to intensified prosecution of clients of child victims of sexual exploitation, and investing in specialised care for youth victims.

The Netherlands has expert-Prosecutors and Judges specialising in cases of human trafficking, including the exploitation of children. Only five specialised courts work on Human Trafficking cases with specialised judges.

The Netherlands drafted an Action Plan to prevent and combat child sex tourism for the period 2016-2018. The Action Plan contains a cohesive package of measures that involves public and private partners.

The Action Plan focuses on 1) prevention (a range of social media campaigns to raise awareness amongst travellers to the development/implementation of a model to create (inter) national barriers for child sex tourism); 2) investigation and prosecution (e.g. the use of two liaison officers in South East Asia for tackling child sex tourism); and 3) International cooperation with Europol, Interpol (for the development of an international certificate of conduct), the Virtual Global Taskforce, and the Council of Europe (participation in the Lanzarote Committee).

11.4 WHICH of the following NATIONAL BODIES are present in the country?

Ombudsman for Child Rights? Yes

There is a National Dutch Rapporteur for Human Trafficking and Child Sexual Exploitation

National Working Groups? Committee on Human / Child Trafficking? Yes

Inter-Ministerial Group on Human Trafficking ? Yes

Special Law Enforcement Unit / Task force? Yes

Dedicated NGOs? Yes – Please see section 10:4 and 10:5 above.

11.5 Is there cooperation between Government agencies and NGOs and in what form does this manifest itself? Has it been Institutionalised?

Following the National Rapporteur's recommendations, the Dutch government developed several initiatives and projects aimed at prevention. Specifically aimed at preventing victimisation or more generally aimed at increasing the assertiveness of young people in matters sexual. Schools in primary and secondary education are required to pay attention to sexuality and sexual diversity. An overview of all the available prevention material has been made. This overview has been distributed to schools, municipalities, and youth workers.

The Labour Inspectorate focused on sectors with an elevated risk of exploitation. Local government officials conducted brothel inspections, which included close observation for any signs of trafficking. Authorities trained immigration, hotel, aviation, customs, and labour inspection staff on how to identify and report signs of child trafficking. A law enacted in 2015, the Tackling Fake Firms Act, enables the government to prosecute fraudulent companies used by traffickers and recruiters to circumvent labour laws, especially in the construction and transportation sectors; contractors are held accountable for any labour exploitation of their subcontractors. The government demonstrated efforts to reduce the demand for commercial sex. The Anonymous Crime Reporting Centre received 182 tips on human trafficking and smuggling (joint category) in 2015, compared with 203 in 2014. The government, in cooperation with NGOs, continued its campaign against child sex tourism aimed at screening potential foreign child sex tourists at airports.

The foreign ministry continued to conduct outreach to foreign diplomats' domestic workers, without their employers' presence, on how to report cases of abuse. Since 2010, the Netherlands has registered 12 cases of human trafficking by foreign diplomats. The government provided human rights training, including trafficking in persons training, during orientation for its own diplomatic personnel. The government provided training to troops on human rights and humanitarian law of war, including trafficking in persons, prior to their deployment abroad as part of international peacekeeping missions.

In addition, the Media play an increasingly important role in raising awareness and preventing human trafficking. Organisations such as Stichting M. and FairWork have launched prevention campaigns via Social Media and elsewhere on the Internet, and

a growing number of television programmes and documentaries are devoted to the subject of human trafficking.

Focussing on Children's Rights, the NGO Terre des Hommes has created a number of resources available on its website such as: 3D virtual reality videos where you can experience the life of a child slave in Kenya and describes the creation of 'Sweetie' (the virtual child used to engage with sex tourists on the internet). Through the 'Sweetie' programme, the identities of more than 1000 offenders from more than 65 countries were handed over to the Dutch authorities.

Considerable efforts have been made in the areas of prevention, investigation and prosecution in the last few years. Various prevention projects have been started, curricula have been developed for primary and secondary schools, films have been produced and social media has been used for prevention campaigns.

11.6 What are the various other bodies that bring together Stakeholders in this area, for you nationally?

The La Strada International NGO platform has been active since 2005 with organisations and networks gathering to discuss current challenges and opportunities to combat human trafficking. Representatives from CoMensha and FairWork from the Netherlands attend this annually. In recent years, small workshops debate topics such as: NGO monitoring, data protection, non-punishment principle and standards for service providers to victims.

Similarly, End Child Prostitution, Child Pornography, and Trafficking of Children for Sexual Purposes (ECPAT) Netherlands is a coalition of five Children's and Human Rights Organisations and one organization working on sustainable tourism. Members of ECPAT are engaged in prevention and rehabilitation programmes for sexually exploited children throughout the world. Among other awareness-raising and training activities, ECPAT Netherlands monitors the implementation of the National Action Plan to Combat Sexual Abuse of Children.

In 2013, an Interdepartmental project developed the Dutch National Referral Mechanism. This project aimed to progress care for victims by improving cooperation between the different stakeholders in the fields of criminal prosecution, (health) care and migration and creating more coherence in certain areas, while putting the victim in a central position.

11.7 What contributions in the whole area of Prevention is being taken forward by FBOs (Faith-based Organisations?).

In the Netherlands, Faith-Based work is not so common. Many organisations in the past have been wary of the 'interference' of Church-related organisations. However in the last three years or so this has begun to change.

Whilst most social work for child victims is carried out by NGOs, FBOs also play an incredibly important role in the prevention of human trafficking. For example, the SRTV (Dutch Foundation of Religious against Trafficking in Women) is a Dutch National network with International contacts that undertakes different kinds of activities to fight trafficking in women. The SRTV has helped to build several networks and they were involved with the founding of the African Network Against Human Trafficking in 2007. It also co-initiated the Religious in Europe Networking against Trafficking and Exploitation (RENATE) in 2009. The committee consists of lay people, sisters and priests from 13 different congregations who worked in various countries in Africa, Asia and Latin America.

The main objective of SRTV is to raise awareness about human trafficking with the general public in Netherlands. The second objective of SRTV is to warn women about the dangers of trafficking via an international network of religious (mainly Catholic sisters and priests). However, SRTV ended in 2015. *Sisterworks*, a similar organisation was created in 2016 to continue the work of SRTV. It succeeded in increasing prevention and awareness training for schools, conducting workshops, engaging with women's groups, churches, congregations and volunteer groups.

For a number of years SRTV was the main Catholic organisation caring for victims of human trafficking. Now there are many active FBOs in the Netherlands (Scharlaken Koord, Salvation Army, *Sisterworks*, Stop the Traffik, Walk Free Foundation.) working alongside other organisations such as CoMensha, the emergency services, investigative services, lawyers and unions. Other FBOs work with women in prostitution: Scharlaken Koord (Scarlet Rope) is based in the 'Red Light' district in Amsterdam. The specific target of its work is the clients of prostitutes to raise awareness, and visit the prostitutes while they work.

The aim is to strengthen the information-base surrounding trafficking, increase awareness and facilitate the repatriation of victims to their home countries.

A number of effective techniques are employed by FBOs such as: hosting talks, lectures, workshops in schools, churches, women groups, rotary-clubs. many materials such as videos and newsletters are developed and distributed to further raise awareness of child trafficking in the Netherlands.

For example, the Salvation Army International organises prevention programmes and helps arrange the return of victims to their country of origin. At the European level, the Salvation Army has formed a task force comprising its National

Coordinators for human trafficking and it has formed bilateral partnerships with a number of countries. In addition to partnerships between the UK and Nigeria and Sweden and Estonia, the Salvation Army in the Netherlands collaborates with its sister organisations in Hungary and Switzerland to develop Prevention & Reconnection Programmes, return programmes designed to offer victims a lasting perspective and so prevent their revictimisation. The underlying principles of the Prevention and Reconnection Programmes are to offer victims an economic perspective (for example, by providing education and help in starting a business), provide them with information and support and help victims to remain safe and resolve their traumas.

11.8 What particular areas of concern / expertise are taken forward by these Faith Based Organisations (FBOs).

Dutch FBOs are heavily involved with both raising awareness but also assisting trafficked victims. A number of FBOs assist in the safe return and reintegration of foreign victims of trafficking, whereas others focus on the empowerment of young vulnerable people and the education of the general public. In particular, the SRTV was instrumental in developing contacts with sisters in a number of different countries of origins. FBOs are in an unparalleled position of trust in the community. Children are less afraid to talk openly to a religious representative, as it won't negatively impact their plea for asylum. This potentially provides an uncensored account of their experiences with Dutch GOs and NGOs.

11.9 Are there some specific contributions into this area of engagement being made by the Catholic Church in your country?

Sisterworks is the main Catholic/anti-trafficking organisation working in the Netherlands. The other Catholic FBOs are more general development organisations, they have sometimes a project on trafficking, but they are not specialised. These include *Mensen met een missie* and *Cordaid* (Dutch Caritas).

12. SAFEGUARDING AND PROTECTION.

12.1 Are there particular reasons why working in this area of child protection may instigate wider issues to be addressed by the Roman Catholic church and the Religious Congregations?

The Roman Catholic Church is not very much involved in this work. The Netherlands is a non-religious country and the role of the Catholic Church is marginal in this work.

12.2 Which are the lead organisations in your country, currently working on Safeguarding?

ECPAT, Comensha, Fier, Terre des Hommes, IOM

12.3 Are there clear protocols in place in engaging with FBOs and what is required from them?

No. There are no clear protocols.

13. GOVERNMENTAL AGREEMENTS.

13.1 What role does your parliamentary forum undertake in addressing the challenges of child trafficking?

There are a number of ways the Dutch Government has improved the way in which traffickers are detected and prosecuted. For example, a Bill has been introduced in Parliament that aims to allow police officers to impersonate as adolescents on the Internet. This should make it possible for them to catch people who try to groom children before they can sexually abuse or exploit them in forced prostitution. Similarly, clients of prostitutes below the age of 21, became liable to prosecution when the Regulation of prostitution and fight against abuses in the sexual service sector bill (including the amendment bill) became law. The Senate of the States-General initially postponed its vote on the Bill in 2013 pending a proposed amendment. The amendment removed the provisions on compulsory registration for anyone in prostitution and the obligation of the client to verify this registration. In 2016 the proposed amendment was adopted by the House of Representatives. It is to be expected that the Senate will debate the amended Regulation of Prostitution and Combating Abuses in the Sex Industry Bill in the near future.

As, in June 2016 the Second Chamber of the Dutch parliament adopted a private member's Bill amending the Dutch Criminal Code which establishes criminal liability for a person who uses sexual services with the knowledge or severe suspicion that a victim of THB is involved. This criminal offence, which would become article 273g CC, is proposed to carry a sentence of a maximum of 4 years in prison or a fine of the 4th category. The draft Bill was initiated by members of the Second Chamber. During the parliamentary debate in the Second Chamber, the Minister of Security and Justice supported the purpose of the Bill, but also expressed a preference for a penal provision which limits the criminal liability to situations in which a person has knowledge that a victim of THB is involved. The Bill is now pending before the First Chamber of the Dutch parliament (the Senate). It proposes that the law will be evaluated three years after taking effect.

Finally, reform of the system of youth care is underway and the bill for a Youth Act was submitted to parliament in 2013. Briefly, the changes in the system involve delegating responsibility for social services for young people to municipalities. 'The aim of this Bill is to simplify the system of youth care and make it more efficient and effective, with the ultimate aim of strengthening the self-reliance of young people and the capacity of their families and social environment to care for them and solve their problems. The reform of the system of youth care should be completed in 2015.'

Services such as youth care institutions, closed youth care facilities and mental health care for young people will be decentralised. The point of departure is that support will be integrated and wherever possible provided within the child's own environment. A possible benefit of this decentralisation is that youth care organisations at the local and regional levels could play an effective role in the efforts undertaken to tackle the 'lover-boy' problem by the Security Coordination Houses.

However, it is important that during the overhaul of the system specific attention is devoted to victims of domestic human trafficking, a vulnerable group. For example, the decentralisation of services must not be at the expense of the option of placing victims in shelters outside their own region, which is often necessary to guarantee their safety. It is also important for the treatment and protection of this group that expertise should be concentrated in a few select national youth care institutions. Moreover, as a result of complex traumatisation and their experiences as victims, this group seems to have more severe psychiatric problems than other girls dealt with by youth care organizations.

The directive also provides that given the nature of the physical and psychological harm suffered by victims, they should receive assistance for as long as necessary for their recovery, and continuing into the child's adulthood if required. According to the directive, professionals who are likely to come into contact with children who are victims of sexual exploitation should be adequately trained to identify, assess and address the signs.

13.2 If the Parliament is addressing these issues – what is the particular aspect of child trafficking which appears to be attracting most of its attention?

Due to one of the most recent reports released by the National Rapporteur, there has been a much bigger focus on the idea of non-punishment of child victims. The non-punishment principle is mentioned in the guidelines on human trafficking for the Prosecution Service issued by the Board of Procurators-General on 21 June 2013, which state that victims should not be prosecuted or punished for offences

which they have been compelled to commit as a direct consequence of their situation as a victim.

GRETA invites the Dutch authorities to make sure that no victims found in possession of false travel documents are punished. However, in the Dutch system, the prosecutor still has discretionary power to decide whether or not to prosecute a case. This discretionary power is referred to as the “opportunity principle” and forms an important feature of criminal procedure in the Netherlands. In cases that involve trafficking in human beings, the Public Prosecutor carries out a complex consideration on a case-by-case basis. Such weighing of the merits of the individual case can lead to a decision not to prosecute a victim who committed a punishable offence, thus giving effect to the non-punishment principle, which can also be given effect through the court verdict. In the event that a victim is, prosecuted for a punishable offence and the court regards him/her to be guilty, the court may as yet decide, given the circumstances, not to impose a sentence (under article 9a of the Dutch Criminal Code).

Similarly, GRETA urges the Dutch authorities to ensure that victims having committed an offence under the influence of traffickers are not precluded from obtaining continued residence after the conviction of the perpetrators. The Residence Regulation for THB of possible victims of human trafficking foresees that the application for a temporary residence permit will not be rejected if the victims have committed an offence under the influence of traffickers. An example of this is the investigation 13Oceans. This case concerned underage Roma children who were forced to steal and pick-pockets in the Netherlands. The children are given residence permits in the Netherlands.

13.3 If your country is a member of the European Union – is this membership in your view, encouraging or discouraging a strong response to the various challenges for protection to be provided for children being trafficked? Please explain why you have answered in the way you have.

Overall, Dutch membership of the European Union has brought much needed funding, bilateral cooperation and recommendations of best practice into the fight against human trafficking in the Netherlands. The EU Directive on Human Trafficking contains specific provisions for the protection of children who are victims. For example, it provides that member states must take the necessary measures to support, assist and protect child victims. It also provides that member states must take the necessary measures to ensure that decisions on specific actions to assist and support child victims in their physical and psychosocial recovery, in the short and long term, are made on the basis of an individual assessment of the special circumstances of each victim. There are also a number of provisions relating to the

protection of underage victims during criminal investigations and proceedings. At the time of writing, the Bill to implement this directive was before the Upper House of Parliament. A key provision of the EU Directive on sexual exploitation of children is that it calls for a comprehensive, three-pronged approach that embraces the prosecution of offenders, the protection of underage victims and prevention.

Whilst welcoming the protection programme for victims and witnesses of THB as best practice under Article 28 of the Convention, GRETA invites the Dutch authorities to examine why it has so far not been used and to ensure that full use is made of it wherever required. As far as this is possible to ascertain, the witness protection programme for victims of THB has been used once. The reason it has not been used more, is because entering this programme has far-reaching consequences for the victims. The programme requires him/her to break all ties, all contact, with his/her past. In most cases, the safety provided by the regular shelters suffices to protect victims of THB. In cases where more protection is needed, prosecutors will try to keep the intrusive nature of the measures as small as possible. They will for example begin by not using the victim's name in the court papers, allowing the victim to use a police station as his/her address or using ways to screen the victim from being seen in the courtroom, in order to avoid a confrontation with the suspect. Only if such measures are still not enough, will application of the witness protection programme be considered, subject to the victim's consent.

In the EU Strategy towards the Eradication of Trafficking in Human Beings, the European Commission has described its plans for strengthening the position of children who are victims of human trafficking. In this context, the Commission referred to the importance of a referral mechanism to ensure coordination of the actions of relevant agencies and disciplines. This recommendation of best practice helped drive the creation of the Dutch NRM which has become a vital tool in research and safeguarding trafficking victims. However, the current documents that describe what has to be done – when, how and by whom – in relation to a victim of human trafficking still makes no reference whatever to the role of employees of Youth Care Organisations in this regard. In that sense, the Netherlands is out of step with the line taken by the European Commission to further strengthen the position of child victims. It is therefore essential for the future referral mechanism to include rules for the protection of Dutch child victims, protection that should extend from the moment the victim is identified up to and including after-care.

14. Health and Education.

14.1 Is there good practice in Prevention awareness in any of these sectors that you can share?

Since many victims experience physical or mental abuse, it is plausible that a large number require medical treatment at some point. Many victims are required to work long hours and are treated violently, and some are forced to have sex (often unprotected) and to undergo abortions. It therefore stands to reason that many victims will come into contact with health care providers, such as hospitals, family doctors, dentists during their exploitation. Therefore, health care professionals in their position of trust can play an important role in identifying victims and therefore in the overall effort to combat both sexual exploitation and exploitation outside the sex industry. It is important that organisations in the Health Care Sector know what they can do to combat human trafficking and to whom they can refer actual and possible victims for further protection. When a (possible) victim has been identified, it is important for the relevant partners in the chain to share information so that further steps can be taken, such as conducting an investigation and providing the victim with assistance.

HEALTH CARE.

There is a growing realisation that Health Care Agencies could make an important contribution to combating both sexual exploitation and exploitation outside the sex industry, particularly in terms of identifying victims.

Doctors and identification.

The University of Antwerp conducted a small survey into the involvement of family doctors in combating human trafficking. Surveying 164 doctors, 82% said they had never been confronted with a victim of human trafficking, 67% were not aware of medical complaints that might be related to human trafficking, and 88% were not aware of the existing referral systems. In 2011, an EU project was launched under the leadership of Payoke, the Belgian shelter organization for victims of human trafficking, to create a system for liaison between the police and health care providers, such as hospitals, family doctors and other physicians, as part of a programme to identify and protect victims of human trafficking. The project focused not only on identification of victims by medical professionals, but also went further to evaluate how they could help in protecting victims and combat human trafficking during criminal proceedings, for example. The aim of the project was to develop guidelines for improving the cooperation between the two professional groups.

A handbook on ways of improving cooperation was written for professionals in the medical and investigative services, as well as for policy makers. Members of the professional groups in a number of member states will also receive training, with

the results used to draft a training module. The identification and special requirements of trafficked people was also developed to be included in the curriculum of Dutch medical universities.

A worrying development that highlights the need for close connections between Safety Coordination Houses and RIECs is that Health Care Agencies are no longer able to be part of the new national RIEC covenant, a development that undermines the inseparable connection between the protection of victims and the investigation and prosecution of human trafficking. Actors in the health care sector, such as youth care services, municipal health services, care institutions and shelters, could have an important task in identifying possible victims and play a key role when it comes to protecting victims. Whereas actors in the health care sector were parties to the former RIEC covenants and were involved in the cooperation and the exchange of information within the chain, that is no longer the case. Under the new covenant, the health care sector is no longer engaged in talks with regulatory and law-enforcement agencies within these consortia.

The health care sector should once more have an evident role in combating human trafficking at the local and regional level. Partners in health care should therefore also be consulted on these cases and should be included in the RIEC's approach to human trafficking. In that context, the regional coordinator could liaise between the RIEC and the partners in the health care sector that are no longer parties to the RIEC covenant. This has become even more urgent following the changes in the youth care system, under which responsibility for the safety of young people has been delegated to the municipalities. Naturally, that extends to preventing their victimisation by human traffickers and identifying and protecting victims. It is also essential for social workers in the relevant areas to be involved in the approach to human trafficking if they are to perform their role properly.

In conclusion, bridging the gap between the medical field and third parties - including law enforcement, NGO's, social partners - can improve early identification, speed up victims' recovery and provide an important input for prosecution

Education.

Horizon is an organization for youth care and special education that focuses on treating and counselling children and young people up to the age of 23 with behavioural problems by working with the young people and their parents.

Various initiatives and projects aimed at prevention have been developed which either specifically aim at preventing victimisation or more generally aim at increasing the sexual assertiveness of young people. Schools in primary and secondary education are required to pay attention to sexuality and sexual diversity.

An overview of all the available prevention material has been made. This overview will be distributed to schools, municipalities, and youth workers.

An overview is being made of the healthcare landscape for victims of lover-boys. And the knowledge about lover-boy problems is being increased in the so-called “social neighbourhood teams” consisting of healthcare and welfare professionals that municipalities in the Netherlands employ to offer social care and support. In this way, the identification and referral of victims will be improved.

15. LEGAL FRAMEWORK

15.1 Is the legal definition of a “CHILD” in line with the definition of the Convention on the Rights of the Child?

Yes.

15.2 What is the LEGAL AGE in the country for a child to take up employment?

16 years.

15.3 What is the LEGAL AGE for completion of compulsory education?

16 years.

15.4 What is the MINIMUM AGE in the country for entry into Military Service?

Entry into Military Service is voluntary, it is a paid job/education. A young person has to be 21 to start in the military Service.

15.5 What is the age of SEXUAL CONSENT?

The age of consent in the Netherlands is 16, as specified by the Dutch Criminal Code at Article 245,[83] and Article 247 [84] which read:

Art 245: "A person who, out of wedlock, with a person who has reached the age of twelve but has not reached sixteen, performs indecent acts comprising or including sexual penetration of the body is liable to a term of imprisonment of not more than eight years or a fine of the fifth category."

Art 247: "A person who, with a person whom he knows to be unconscious or physically unable to resist or to be suffering from such a degree of mental defect or mental disease that he is incapable or not sufficiently capable of exercising or expressing his will in the matter or of offering resistance, performs indecent acts, or who, with a person who has not yet reached the age of sixteen (16) years, out of wedlock, performs indecent acts, or by whom the latter is enticed into performing, or

submitting to such acts, out of wedlock, with a third party, is liable to a term of imprisonment of not more than six years or a fine of the fourth category."

A new law is almost through parliament to raise the age of working in prostitution to 21.

15.6 What is the MINIMUM AGE in the country for MARRIAGE?

A person has to be 18 years to get married without permission of the parents.

15.7 Is every child in the country REGISTERED at birth?

Yes, every new born child has automatically the nationality of the mother.

15.8 Does every child require a PASSPORT / Legal document for travel to another country?

Yes.

16. LEGISLATION.

16.1 Are there LEGAL PROVISIONS to guarantee that child victims are protected from the effects of giving evidence in open court? What are these?

The Council of Europe's Guidelines on child friendly justice (2010) states that legal systems are child friendly if legal procedures are accessible to children and adapted to the age, development and the needs of the child. In accordance with international law and guidelines, the following points should be central to the protection of child victims from giving evidence in open court:

- During criminal proceedings the vulnerability, special needs and rights of child victims shall be taken into account;
- Child victims are informed of their rights, role, scope, schedule, progress of the process, options for appeal and compensation by the offender(s);
- Procedures are quick;
- Child victims and their families are protected from intimidation and retaliation;
- The identity and privacy of the child victim shall be protected;
- A child victim may be heard without being present in the courtroom;
- Hearing of child victims is done in a room specially equipped for this purpose;

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- Hearing of child victims happens every time by the same specially trained professionals;
 - The number of interviews is limited;
 - The victim may be assisted during questioning by a legal representative or other person of their choice;
 - Each hearing shall be recorded on video that can serve as evidence in the trial.

A key concern here is secondary victimisation - it is generally understood that giving evidence in open court and having visual contact with the defendant can be traumatic for victims. Article 12.4 of the EU Anti-Trafficking Directive requires Member States to take measures to prevent secondary victimisation by avoiding the giving of evidence in open court (among other things). In the Netherlands, children who have been trafficked and are appearing as witnesses or defendants have their interviews recorded audio-visually. (ECPAT React Final 2016 p. 31). Child victims are not usually heard in court; these video interviews are used instead. Hearing of the witness takes place during the preliminary inquiry.

In addition, there are regulations for how the interviews can be conducted. Interviewing victims by the police can only be done by investigators specially trained and certified for that purpose. If a child victim is under twelve years of age, it will take place in a child-friendly interview studio: a special room where the possibility exists to record the interview with video equipment. The police also do a studio interview when a vulnerable witness (children under twelve years of age or people with intellectual disabilities) must be heard in sexual abuse cases or in cases involving domestic or child abuse. In trafficking cases, interviews with minors (victims, witnesses or suspects) are always recorded audio visually. This also happens when a behavioural expert is present at the hearing. (p. 77-78 ECPAT)

There is also broader legislation relating to the position of victims in court proceedings. The Victims' Status Act came into force on the 1st January 2011, and anchored the victim's standing as an independent participant in legal proceedings in Dutch criminal procedural law. The key transition is one from the perception of the victim as an instrument in the process of arriving at the truth to that of an independent participant with personal interests in the proceedings. In addition, the EU Directive on Human Trafficking (2012) gives the victim the right *'to be treated with respect for their dignity ... and the right to be protected at the various stages of the proceedings.'*

In practice, the PPS has made an active effort to enhance the protection of all victims – not specifically victims of HT – during criminal proceedings in recent years. Their 2012 annual report stated that *‘the PPS prosecutes the suspect, but is there to help the victim.’* These efforts include

- Appointment of Portfolio holder for Victim Care
- Appointment of public prosecutor responsible for victim care to each of the PPS’s offices
- 2011 - Appointment of case coordinators whose task is to support victims in serious cases such as human trafficking; the case coordinator is the principal contact person for the victim, meets them at court and keeps them informed (in principle, one assigned to every human trafficking case)
- 2008 - network of victim support desks.

However, the State Secretary has written that general policy is not enough for this vulnerable group and specific policies are required. The PPS has responded by saying that it will devote special attention to victims of human trafficking in the coming period.

16.2 Does legislation in the country criminalise human trafficking?

Yes

16.3 Which forms of exploitation does the definition of human trafficking include? (place an X):
 Prostitution of others? Other forms of sexual exploitation? X
 Labour exploitation? X Slavery or practices of slavery? X
 Removal of Organs? X Illegal Adoption? X Organ Trafficking X
 Domestic Servitude X Child Trafficking X

16.4 Does the legislation apply to CROSS-BORDER trafficking? Yes

16.5 Does the legislation apply to INTERNAL trafficking? Yes

16.6 Does the legislation apply specifically to trafficking in CHILDREN? Yes

16.7 Does the legislation make reference to the RIGHTS OF THE CHILD and/or the specific BEST INTERESTS OF THE CHILD? Yes

16.8 Does the country have legislation to prevent the sexual exploitation of children? Yes

16.9 Does the country have legislation on child labour? Yes

16.10 What are the guidelines for the participation of child witnesses and victims to bring their case to court? Is there provision for victimless prosecution?

Police and the PPS start a criminal investigation if there are sufficient indications for detection; a victim is not obliged to report human trafficking, although reporting by the victim does help provide indications. Human trafficking is an offence prosecuted ex officio. It is not required to report, especially in the case of child victims of trafficking. A (witness) statement in which the victim is confronted with the facts and just needs to confirm should be sufficient for the criminal investigation and prosecution.

However, in practice, a report or statement is an important condition for victims of cross-border trafficking to get a temporary residence permit under the B8 regulation.

16.11 Are there instances which need to be verified, of those who have been victims of trafficking, ending up as under criminal charge?

It is generally agreed [National Rapporteur 2017 p.78] that victims of trafficking ought not to be prosecuted for crimes committed as a result of being trafficked - this is often called the non-punishment principle. There is a reliance on the existence of discretion on the part of prosecution services or judiciary not to prosecute in certain circumstances. However, this discretion tends to be based on an understanding that a person should not necessarily be convicted for an offence he or she had committed under physical or mental duress, and it is not always obvious that a trafficked child has acted under such duress. (ECPAT React Final 2016 p. 29).

An example of this can be seen in the S. and Mehak case. S. was born in India and came to the Netherlands in 1999 at around thirteen years of age, following an agreement between S.'s father and R. and his wife P., whose family had been living for some time in the Netherlands. It was agreed that S. would live in their home and perform domestic work in the household. S. worked from early in the morning until late at night, for very low pay, and on 15 January, 2008, R. and P. were prosecuted and convicted for human trafficking by the Hague District Court and later by the Court of Appeal. The case also involved charges stemming from the death of Mehak, the daughter of the other couple that worked and lived in R. and P.'s house. R. instructed S. by telephone to assault Mehak, who was seriously assaulted and died that night, aged 22 months. S. was prosecuted for her part in the assault of Mehak – it had been proved that S had repeatedly answered the phone when R. called and passed on instructions, that she herself had beaten Mehak with a stick and that she

smear sambal on the baby's lips. The Court of Appeal sentenced S. to a term of imprisonment of five years.

The Court ruling stated that 'the systematic mistreatments of [Mehak] before 28 January 2006 and the manslaughter of [victim] on 28 January 2006 cannot directly be linked to the accused's forced work in the context of the exploitation by R and P. In light of that, and of the gravity of the offences concerned, the non-punishment principle should not be applied.' The judgment in first instance in the trial of S., and later on appeal, formed the basis for a series of decisions that were made in her case. It can be seen from the case file that the conviction laid the basis for her being declared an undesirable alien and that that declaration, in turn, formed the basis for the a priori rejection of her asylum application. Consequently, S. was never granted the rights she was entitled to as a victim of human trafficking.

16.12 Are there LEGAL PROVISIONS to appoint an appropriately experienced Lawyer to represent child victims?

In 2009 the PPS (Public Prosecution Service) appointed dedicated regional public prosecutors for human trafficking cases who had to meet certain requirements in terms of training. However, they do not handle all the human trafficking cases. As of 2016, Lawyers in the Netherlands have said that they needed further training in effective communication with children and had not been trained to hear what children were trying to say to them. They mentioned that a cultural mediator may also assist in communication (ECPAT React Final 2016 p.26).

In addition, it is worth mentioning that the courts have not appointed any specialised judges (as of 2014). In 2010 – 77% of judges concerned dealt with just a single human trafficking investigation; 5% dealt with at least three; and not a single judge dealt with more than four (from Trafficking in Human Beings (Case Law)).

17. LAW ENFORCEMENT

17.1 How many (CHILD-)TRAFFICKING CRIMES have been RECORDED (by police) are UNDER INVESTIGATION, were CONVICTED were PROSECUTED in the country? (fill in table).

Year	Recorded by Police	Under investigation	Convicted*	Prosecuted**
2010	ND	ND	55 (adult + child)	60 (adult + child)
2011	117 (63 Dutch)	37	50	65

2012	281 (95 Dutch)	33	70	85
2013	259 (160 Dutch)	21	110	140
2014	279 (145 Dutch)	20	125	162
2015	288 (165 Dutch)	11	150	189
2016	227 (141 Dutch)	-	110	152

*And ** are total numbers of cases, the Netherlands legal system does -because of the Privacy Act (Wbp)- not provide public information about cases. So there is no information available on child-cases.

Information from:

[https://www.nationaalrapporteur.nl/binaries/Slachtoffermonitor%20mensenhandel%202012-2016_Nationaal%20Rapporteur%20\(i\)_tcm23-285357.pdf](https://www.nationaalrapporteur.nl/binaries/Slachtoffermonitor%20mensenhandel%202012-2016_Nationaal%20Rapporteur%20(i)_tcm23-285357.pdf)

The National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children reports in the Monitor Human Trafficking Figures for possible victims 2011-2015:

The number of reports by the police has declined sharply, both in absolute and relative terms, over the past five years: from 72.9% in 2012 (n = 976) to 41.8% in 2016 (n = 462). This decrease is probably caused by the reduced capacity for combating trafficking in human beings due to other priorities (in particular to people smuggling in the light of the increased migration and refugee flow), and possibly also loss of expertise as a result of the reorganisation of the National Police since 2013. The National Rapporteur has already expressed her concerns about this on several occasions. In this context, it is recommended that, in the context of the smuggling of human beings, attention should also be paid to signs of trafficking in human beings (given the interconnectedness between these two phenomena) and that the available capacity for combating trafficking in human beings does not suffer from the fight against smuggling in human beings.

This research shows that child victims, most often appear in the form of trafficking that occurs most often in domestic sexual exploitation, but at the same time are they the least visible here. In addition, the minor victims are even less visible in this form (11.3% of all minor victims are in the picture) than the adult victims (18.6% of all adult victims are in the picture). On the other hand, minor foreign victims are

more visible than adult foreign victims. According to this study, minors are a clear minority. However, because the estimates of these groups are based on even smaller numbers than the estimate of the total group of victims, these estimates cannot be considered as indicative.

17.2 Minors and Justice

An interview with the Police Minors Team on an earlier important HT case about ten years ago [Koolviszaak] with many minor victims showed that more time was spent on these young people/witnesses. For example, a very detailed intake was first held and at the end of the intake the youngster was then given the choice to file a report. If he/she decided to file a report, the police would take two days to record the declaration. That was done very carefully and extensively by the police. However, this method was changed again, because it cost a lot of capacity and there were very rarely usable directions given by the young witnesses to the investigators.

In total 2011 and 2012, twenty-two minors from the protected shelter pressed charges and nineteen minors had an intake interview that ultimately did not lead to a report. In 2011 (81%) and in 2012 (86%) they were mainly girls. The vast majority (86%) were seventeen years or older. Guinea (n = 9), Sierra Leone (= 9) and Nigeria (n = 4) were the most common countries of origin in 2011. In 2012, Guinea (n = 9) was the most common country. A striking fact is that in 2012 no young people from Sierra Leone filed a report, compared with nine young people in the previous year. The number of Nigerian young people who filed a report also decreased compared with 2011, from four in 2011 to one in 2012.

Since the re-evaluation of the guidance method in 2013, the Mentors and Guardians discuss reporting with all young people who are being cared for in the protected shelter. If young people decide to report their case, they will be accompanied by the Mentors or Guardians. The reason for them to start talking about reporting lies not only in the fact that traffickers have to be traced and future victims must be prevented. According to NIDOS, a report can also lead to young people being heard and supported, which can contribute to their motivation for counselling and treatment.

The intakes and reporting/declaring comply with the conditions laid down in national and international laws and regulations when it comes to unaccompanied foreign minors. For example, the intake or declaration, depending on the age of the youngster, is done in a special interview room for minors, intakes and declarations are always done by two detectives, one of whom is a certified human trafficking detective and the police ensure that an interpreter is present in person. Young people are sometimes assisted by their mentor, their guardian or their lawyer

during the intake and declaration. The young person can request to be heard by a woman or man (police officer).

During the declaration, the PMT (police minor team) team focuses as much as possible on possible human trafficking indications. When detection indications are given, this gives reason to hear the young person more extensively. Then the 'surrounding' story is also discussed, such as the home and family situation.

Of the total of 7,252 victims reported to CoMensha in the period 2011-2015, 246 times the age at the time reporting to CoMensha is unknown: 8 out of 14 victims in 2011, 10 in 2012, 12 in 2013, 63 in 2014 and 147 in 2015.

It is striking that the age of victims of exploitation outside the sex industry in 2014, but especially in 2015, is very often unknown. The average age of the 4,766 victims of sexual exploitation is 24.7 years. This is lower than the average age of 32.8 years of the 1,037 victims of exploitation outside the sex industry. But higher than the average age of 20.4 years of the 1,203 victims whose form of exploitation is unknown.

17.3. Child victims.

In total, 1,251 child (underage 18) victims were reported to CoMensha in the period 2011-2015 (of which 291 in 2015). This concerns 18% of all 7,006 reported victims whose age is known. As noted above, in 2015 more often (at 25%, n = 291) than in previous years (at 16%, n = 960) there are child victims. What is striking is that in a considerable proportion of the total number of reported victims in 2015 the age is unknown (n = 147). The majority of these reports (n = 129) concern victims of trafficking from exploitation outside the sex industry. Victims of this form of trafficking are mostly adults.

17.4. Children per type of exploitation.

This report gives the proportion of child victims of the 7,006 victims of whom the age is known per form of exploitation (sexual exploitation, exclusively exploitation outside the sex industry, exploitation form unknown) for the period 2011-2015. The sexual exploitation (n = 4,766) involves a total of 620 (13%) children.

Most of the underage victims of sexual exploitation are reported by the police. There is an upward trend in the annual proportion of children in sexual exploitation; from 9% in 2012 to 18% in 2015. If the victims of sexual exploitation reported only by the border police are excluded, the same rising trend will remain visible and the proportion of children will be zero to five percentage points higher each year.

17.5. Dutch and Foreign child victims.

The data shows that in the period 2011-2015 there were a total of 1,251 child victims. Half of these child victims are victims of sexual exploitation (n = 620, 50%), of nearly half of the victims the form of exploitation is unknown (n = 593, 47%), and the remaining 3% (n = 38) are victims of exploitation outside the sex industry.

The number of Dutch child victims of sexual exploitation is increasing: from 78 in 2011 to 128 in 2015. The number of Foreign child victims of sexual exploitation is decreasing: from 46 in 2011 to 16 in 2015.

The number of child victims whose nationality is known (616 child victims of sexual exploitation (2011-2015), and 587 victims whose exploitation form is unknown) is divided by form of exploitation in Dutch and Foreign child victims.

Among the 587 child victims whose forms of exploitation are unknown, the number of Foreign underage victims increases, while the number of Dutch underage victims does not significantly increase or decrease over the entire period.

[https://www.nationaalrapporteur.nl/binaries/Slachtoffermonitor%20mensenhandel%202012-2016_Nationaal%20Rapporteur%20\(i\)_tcm23-285357.pdf](https://www.nationaalrapporteur.nl/binaries/Slachtoffermonitor%20mensenhandel%202012-2016_Nationaal%20Rapporteur%20(i)_tcm23-285357.pdf).

17.6 WHAT kinds of SENTENCES were imposed on those convicted of child trafficking?

The judge can impose a maximum prison sentence of 12 years for trafficking in human beings. When the victim is a child or if the offense was committed by two or more persons, the maximum penalty is 15 years. If there is serious injury, the maximum sentence is 18 years. When the exploitation has resulted in death, a sentence of 30 years or life imprisonment can be imposed. Victims are also entitled to compensation after a conviction. (National Referral Mechanism:

https://www.wegwijzermensenhandel.nl/Strafrechtelijk_proces/Veroordeling/index.aspx)

17.7. Are there instances that you have encountered (second or third Party) or seen reported on the Criminal Justice process having been subverted – with corruption, or simply a financial penalty and not imprisonment?

The Netherlands was shocked in 2015 by a case of a Dutch girl (15 yrs) working in prostitution in a Dutch hotel. Her 'boyfriend' pimping her stayed in the room next door. Many clients were found by DNA samples from condoms found in the litterbin. This was big news in papers, on TV and social media. Although no names

are mentioned in Dutch lawsuits many men (fathers, teachers and a social worker) were identified publicly. Two of the perpetrators committed suicide. During the lawsuit the judges sentenced the very minimum punishments for the 27 perpetrators because in their judgment they took into account that all of the perpetrators were already publicly shamed.

At the end of December 2016, the court in Den Bosch convicted 23 clients of a girl child working in prostitution to a sentence of one-day imprisonment - and in one of the cases: two days - imprisonment and a community service for juvenile prostitution. Youth prostitution falls under the crimes for which the community service prohibition applies.

The Public Prosecution Service did not agree with these sentences and filed cassation (reversal) in six cases. In cassation, the Public Prosecution Service has argued that imposing a community service without substantial prison sentences is in conflict with the intention of the law.

The sentence assessment can be tested in a limited way in cassation. There is a great deal of freedom for the Supreme Court judge in sentencing the punishment. The Supreme Court only tests whether the court has correctly explained the law and regulations and whether this is understandable and sufficiently motivated.

The Supreme Court ruled in this case that the PPS's view is incorrect. The law allows deviation from the community service prohibition if an unconditional prison sentence or custodial measure is imposed in addition to the community service order. If, in addition to a community service order, an unconditional prison sentence is imposed, the term of imprisonment is, according to the law, at least one day and at most six months. An unconditional prison sentence of one or two days, in addition to a community service, is therefore not in violation of the law. The Supreme Court also considers that the reasons for the imposition of punishment by the Court are not incomprehensible and sufficiently motivated. Now that none of the cassation complaints leads to the destruction of the statements, these are definitive.

17.8. Is there training for Law Enforcement – for Criminal Justice System (Judges, Prosecutors,) widely available? Yes.

17.9. How many children APPLIED for ASYLUM? How many were GRANTED Asylum? Which Countries (fill in table)

No children are denied asylum until their 18th birthday. Some are repatriated if good conditions are available in the home country.

Year	Numer applies	Number granted	Countries
2011	485	ND	Afghanistan 260 Somalia 40 Iraq 25 Eritrea 10
2012	380	ND	Afghanistan 145 Somalia 40 Guinea 40 Eritrea 12
2013	310	ND	Afghanistan 60 Eritrea 36 Guinea 30
2014	960	ND	Eritrea 528 Syria 156 Afghanistan 30
2015	3859	ND	Syria 1458 Eritrea 1237 Afghanistan 533
2016	1707	ND	Eritrea 773 Afghanistan 195 Syria 181

18. TRAFFICKING STATISTICS

18.1 Is there data available to show the number of children trafficked internally/into the country from abroad/out of the country to other countries? (fill in table. State the names of countries if known. If data is unavailable, mark the table ND).

DATA is available but difficult to locate – this needs further work to show the number of CHILDREN trafficked INTERNALLY / INTO the country from abroad / OUT OF the country to other countries (fill in table - state the names of the countries, if known. If there is NO DATA available, mark table with ND)

Year	Nos children	Domestic	Into the country	Out of the country	Source
2010					
2011	194	129 Dutch	From Nigeria Sierra Leone		
2012	221	136 Dutch	From Guinea Sierra Leone		

			Angola Romania		
2013	258	161 Dutch	Guinee, Sierra Leone Mongolia		
2014	278	144 Dutch	Eritrea Guinee, Albania, Nigeria		
2015	291	160 Dutch	Afghanistan Vietnam Eritrea Syria		

19. ASSESSMENT and RECOMMENDATIONS.

19.1. Across the churches, WHAT particular aspect of Child Trafficking is being debated? (e.g. Prevention? Protection? Migration? National Security? National Identity? Religious Continuity?)

Religious organisations appear to be most involved with the prevention aspect of child trafficking by creating leaflets, holding lectures,

19.2. What are the FACTORS that INHIBIT effective efforts to prevent child trafficking in your country?

There are many well-meaning organisations working towards similar goals, meaning that overlap of responsibilities is common and sometimes it's not very clear as to who oversees which aspect of tackling child trafficking. Streamlining and coordinating the activities, tools and goals of these organisations is key.

CONCLUSIONS AND RECOMMENDATIONS.

In contrast to a number of other European countries, the Netherlands is unable to provide data convicted persons broken down by different forms of trafficking. It seems to register suspects of human trafficking and people smuggling under the same offence code. As a result, the police records are not fit for detailed and useful analysis.

In order to be visible, human trafficking has to be properly registered so that useful data can be collected. This is important for guiding further research, as well as evaluating and, where necessary, revising policy. The Netherlands would benefit from professionalising and standardising its registration process (this has been

partially achieved with the NRM but there is variability in how different regions report possible victims).

Long term, continuous monitoring of child victims of trafficking should be professionalised and standardised. This can be done with repeat questionnaires assessing the development of the child, or perhaps regular, structured progress meetings. There are suggestions for improvement in the following areas:

Prevention.

With specific regards to the '*lover boy*' problem, it is important to make the subject a standard component of training programmes designed to enhance the expertise of employees of professionals who may come into contact with trafficked children. FBOs are crucial for this as they come into contact with both the victims and potential offenders of this crime.

Continued focus on the Internet is key as a potential tool to target traffickers. There are also many opportunities on Social Media to spread awareness and encourage reporting of possible victims. It is important to spread awareness of labour exploitation as a form of trafficking as it is still sadly overlooked.

Protection.

It would be incredibly useful if important documents available on the CoMensha website for reporting possible child victims of trafficking (currently only available in Dutch) were also downloadable in other languages, particularly English.

Continued work with those in prostitution in the *red light* district, offering advice and targeting information at clients (such as Scharlaken Koord has been doing) is useful.

Strengthening the information base between FBOs, NGOs and GOs as religious representatives which come into contact with child victims is important.

Disappearances from reception facilities remains a huge issue. Despite it not being an issue so much in protected facilities due to additional supervision and security, a number of children continue to go missing in other forms of shelter. It's important to develop and distribute a standardised tool to identify children at risk of disappearing.

Parental replacement of the duty of Safeguarding of the State.

Clearer legal framework to protect staff working in protected facilities against seemingly inconsequential but potentially devastating actions such as locking doors and limiting the activities of vulnerable children.

In regards to the first few weeks of living in a protected facility, children are overwhelmed with information and unsure of the specific roles and responsibilities of different representatives they meet. Perhaps FBOs could help by developing and distributing professional, standardised leaflets for the child to read and digest.

Participation.

It is suggested that FBOs in the Netherlands have limited impact on the care for the child following discovery, the responsibility lies instead with the multidisciplinary team described above. Standardising the inclusion of representatives from FBOs as part of the multidisciplinary team which assesses and addresses the needs of the child needs to be done. The acknowledgment of the spiritual needs of the child in a protected facility is sometimes limited and this also requires attention.

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A country overview.

The post-Soviet setting of Slovakia, as with that of the Ukraine and Hungary being studied in this seven-country overview, is an important contextual point from which to start this analysis of some of the challenges which are currently facing Slovakia as it addresses issues of human trafficking being undertaken within its borders.

In 1989, just under thirty years ago, revolts against the Communist governments swept through many eastern European countries, including East Germany, Poland, Romania, and Czechoslovakia. In November of that year, Slovaks joined with Czechs in mass protests against the Communist government which were broadcast to amazed audiences in Europe and the United States. Less than one month later, the government resigned and non-Communists took control of the country. During the course of the next three years there were attempts for Czechoslovakia to retain federal unity. However disagreements between the Republics intensified in their emergence from the strait jacket of post - Soviet rule, and it soon became clear that no form of federal government could satisfy the aspirations and agendas of both Republics, and their significantly different civil societies. In July 1992 Slovakia declared itself a sovereign state, with its laws taking precedence over those of the previously functioning federal government.

With a population of just under 5.5 million, a major priority of Slovak foreign policy since independence has been to maintain good relations with its Community of Independent State neighbours, in both trading, politics and managing its geo-political security. The Czech Republic and other central European nations share a long legacy of Soviet legislation and state policing, and all are struggling to engage the norms of an 'open' global economy and strong agenda of political accountability. Relations with Hungary have been strained from the outset of this political journey, generated in no small part over the status of Slovakia's substantial ethnic Hungarian population, a challenge

exacerbated by popular fears amongst Slovaks, of internal alliances for Hungarian expansionism.

In March 1995 Hungary and Slovakia took an important step toward peaceful relations with the signing of a treaty of friendship and co-operation; the treaty importantly reaffirmed the Slovak-Hungarian border, and contained pledges on the part of both governments to protect and foster the rights of ethnic minorities residing in their countries.

Essential Data

Population: 5.429 million (2016) World Bank

Unemployment rate: 8.2% (Apr 2017) Eurostat

Life expectancy: 77.21 years (2015) World Bank

Fertility rate: 1.37 births per woman (2015) World Bank

GNI per capita: 29,910 PPP dollars (2016) World Bank

Economy : Agriculture (% of GVA) 2014 4.4

Industry (% of GVA) 2014 33.6

Services and other activity (% of GV) 62.0

Population growth rate: 0.1% annual change (2016) World Bank

Gender Distribution **Gender Ratio is 94 men to 100 women** (94:100) or 0.94.
(this may have to do with outward economic labour migration)

Significantly Slovakia's gender ratio is lower than the global average of 101 men to 100 women (101:100) or 1.01

(This is also deeply age defined with a steeply graduated privileging of females to males after the age of 55)

1. **EXTENT AND PATTERNS of CHILD TRAFFICKING in the COUNTRY.**

'Roma from marginalised communities are disproportionately vulnerable to trafficking. Slovak children of Romani descent are subjected to sex trafficking within marginalised communities in the Slovak Republic and forced criminal behaviour in the UK. Slovak men, women, and children of Romani descent are subjected to forced begging throughout Western Europe. Traffickers find victims through family and village networks for sex and labour trafficking and have also exploited men in forced labour. Children without family or relevant support structures who leave institutional care facilities are subjected to sex and labour trafficking.'

-
- 1.1 The problem of child trafficking is recognised by the Slovakian government, although the Ministry of Interior sees the challenge of trafficking being principally that of Slovakia as a **country of source**. The Information Centre for Combating Human Trafficking and Crime Prevention was established in the Ministry of Interior of the Slovak Republic.
- 1.2 The Prevention and other anti-Social activities act is designed to support and protect victims. The amendment of the definition of the Criminal offence of human trafficking as seen in Article 179 of the Criminal Code introduced abduction as a new instrument, forced begging as a form of forced labour, and forced marriage as well as exploitation of criminal activities as new purposes.
- 1.3 The Ministry of Interior cooperates with NGOs to build a multi-agency approach to combatting human trafficking. The first National Action Plan for Combating Trafficking in Human Beings was set up in 2011- 2014, and has spawned another National Programme for 2015- 2018 with the aim to tackle human trafficking by focusing on the coordination of all agencies involved. This is backed with the political and financial support of the government ⁱ (A Human Rights Report on Trafficking in Persons, Especially Women and Children, Slovakia)
- The National Programme covers four main areas: (i) Supporting Framework, (ii) Prevention, (iii) Support and Victim Protection and (iv) Criminal Proceeding.

2. DATA COLLECTION

2.1 Is there a Central National Registration system in the country for victims of trafficking?

The Slovak government's application for the grant to the European Commission in 2010 which aimed at establishing in the country a systematic, coordinated and harmonised data collection about human trafficking was approved in 2011. This helped to increase awareness and ensure proper documentation of victims while monitoring figures. In 2009, the Data Collection and Harmonised Data Collection System Management was implemented by the Slovak government in partnership with the International Centre for Migration Policy Development ICMPD, Czech Republic, Portugal and Poland. This Information System permits authorised persons

to register, connect and screen victims and print reports At the end of 2009, the Information Centre was established to Combat Trafficking in Human Beings and Crime Prevention; to improve information collection and strategic analysis on trafficking in persons (European Commission, Slovakia- Implementation of Anti-Trafficking Policy)

2.2 Is the data properly disaggregated by gender and ethnicity?

The statistical data collected is disaggregated according to certain criteria such as sex, age, country of origin/ destination and type of exploitation (GRETA, Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic, Second Evaluation Round, 2015)

2.3 What FORMS OF EXPLOITATION are identified?

The forms of exploitation identified include labour, sexual, begging and illicit criminal activities. Some Slovaks are subjected to forced labour in agriculture and construction work in Western European countries while women are subject to sexual exploitation. Some Slovak children of Romani descent are subjected to forced begging or forced to commit criminal activities in Western European countries. Often they are subjected to sexual exploitation within marginalised communities in the Slovak Republic (Office to Monitor and Combat Trafficking in Persons, 2016 Trafficking in Persons Report; US Department of State)

2.4 WHO is responsible for collecting this data?

The Information Centre has the task of collecting data, as stated earlier.

3. PROFILE OF COUNTRY AND TRAFFICKING ROUTES.

3.1. Slovakia is mainly a country of origin for victims of trafficking. As stated in 2.3 section, The 2016 TIP (Trafficking in Persons) Report confirmed that some Slovak men and women and children and subjected to forced labour, sexual services, begging and criminal activities in many Western European countries.

3.2. Where there are male victims from the Slovak Republic they are reportedly trafficked to the United Kingdom for labour exploitation. Slovak women are trafficked for sexual exploitation in countries such as Germany, Austria, UK, Ireland, Switzerland and Poland (TIP Report, 2016).ⁱ

3.3/3.4. The Slovak Republic is also a country of destination for men and women victims from Ukraine, Moldova, Bulgaria, Romania, Thai and Vietnam who are subjected to forced labour in Slovakia.

Although Slovakia is mainly a country of origin, to a lesser extent it is also a country of transit or destination. (Assisting and Reintegrating Child Victims of Trafficking)

3.5. Slovakia is also a country of transit for victims of child trafficking.

3.6. Child victims from Ukraine, Moldova, Bulgaria, Romania, Balkans and China are transported through Slovakia to Western Europe and Czech Republic for sexual exploitation.

3.7. Victims in transit through Slovakia are reportedly trafficked to the United Kingdomⁱ

3.8. Internal child trafficking exists

3.9. The main cities are principal points of the location of exploitation.

3.10. Slovak children of Romani descent are often subjected to internal sex trafficking. To date, Slovakia has not identified a foreign child as a victim.

There seems to be very little statistical data on child trafficking per se. The reports give information on trafficking, mainly adults. So the following data relates to adult human trafficking.

In 2015 when GRETA undertook its first review on Slovakia's fulfilment of the Council of Europe Convention on the Action Against Trafficking in Human Beings, the following information was reported: The Slovak Republic was still considered to be mainly a source country for victims of trafficking in human beings. However, it became clear to the GRETA reviewers that trafficking in human beings occurs also domestically, although it is not particularly pursued in proactive policing policies.

In 2015, a total number of 47 victims of trafficking were provided with assistance and support. The number reflects the victims who had entered the programme in the previous years and were provided with care also in relation to criminal proceedings.

In 2015, only 8 female victims of trafficking (i.e. 32 %) entered the Programme of Protection in 2015. The number of female victims decreased in comparison with 2014 when female victims represented a prevailing number (65 %). The majority of female victims in 2015 originated from the east of Slovakia. 17 male victims entered the programme in 2015 which represents 68% of all victims entered in the programme in 2015. The majority of them originated from the east of Slovakia. In 2014 the male victims represented 35% of all victims who entered the programme that year. In the previous years the prevailing number of victims were women while in 2015 they were men. The detailed analysis showed the youngest female victims entering into the programme in 2015 were aged 19. They originated from the regions of Bratislava (western part of Slovakia), Banská Bystrica (central part of Slovakia) followed by Košice region (eastern part of Slovakia). The eldest female victim aged 47 originated from Nitra region (western part of Slovakia).ⁱ

The youngest male victim aged 20 originated from Prešov region (eastern part of Slovakia) and the oldest male victim aged 66 from the region Banská Bystrica (central part of Slovakia).

4. DATA AVAILABLE – STATISTICS

4.1. Extraordinarily given the range of child trafficking which can occur, criminality, street begging, sexual abuse (child prostitution and pornography) and child labour to nominate the top areas of exploitation, only six child victims of THB were identified in the period 2010-2013, all of them girls. Data for identified victims does not reflect the actual scale of this phenomenon in the country. Socially disadvantaged persons, in particular from the Roma community, are vulnerable to THB, including children who are exploited in begging or in criminal activities (GRETA 2015,)ⁱ

The **Information Centre for Combating Trafficking** in Human Beings and Crime Prevention was set up by the Ministry of the Interior in 2009, and has relocated from Košice to Bratislava. The centre is staffed by four persons whose tasks include collecting statistical information, providing an analysis of crime-prevention work, preparing and participating in training activities on THB, disseminating materials for awareness-raising campaigns, and sharing information at international level. The Information Centre also processes applications of potential victims and presents conclusions to the National Co-ordinator who takes a final decision concerning the identification of victims and their access to assistance.

GRETA 2015 brought together a comprehensive analysis of what were some of the challenges which remained for Slovakia in its journey towards Council of Europe

Convention in Action Against Trafficking in Human Beings. It called on the State's expert team to pay more attention to the fact that boys can be caught in the trafficking cycle, as well as to be more alert to the requirement to proactively seek out child trafficking abuse, and the violence which is attached to all forms of trafficking violation with children.

The State Secretary of the Ministry of the Interior acted as National Co-ordinator for Combating Trafficking in Human Beings. However, since 1 July 2013, the competences for combating THB have been transferred from the Criminal Police Bureau to the National Unit for Combating Illegal Migration of the Border and Alien Police of the Police Corps Presidium, which detects and investigates THB offences.

Within the National Unit for Combating Illegal Migration, a Department for Combating THB was established, which provides assistance to and co-ordinates the anti-trafficking action of other police departments, the Office of the Police Corps Presidium and the Ministry of the Interior. It is also involved in international police co-operation in the detection and investigation of THB cases with the support of Europol and Interpol, as well as in direct co-operation with counterparts in other countries.

A new National Programme for Combating THB for 2015-2018 was adopted by the Slovak Government on 4 February 2015. As regards other policy documents relevant to THB, the Slovak Government approved the Migration Policy of the Slovak Republic on 31 August 2011, which includes measures against THB as part of combating irregular migration. Activities in the area of combating THB focus on strengthening control over employment agencies offering jobs abroad, including through licencing; improving international co-operation in combating irregular migration and trafficking; increasing awareness among the general public on illegal work, smuggling of people and human trafficking; reintegration of victims of THB into society; and identification of child victims of trafficking transiting Slovakia.ⁱ

On 15 January 2014, the Slovak Government approved the National Strategy for Protection of Children against Violence, which is based on General Comment No. 13 (2011) of the United Nations' Committee on the Rights of the Child and the Council of Europe Policy guidelines on integrated National Strategies for the protection of children from violence. This strategy aims at improving the protective environment for children and decreasing their vulnerability to trafficking. Further, on 29 January 2014 the Slovak Government approved the Integration Policy of the Slovak Republic, which recognises that vulnerable foreigners, including unaccompanied children and victims of THB, require increase attention, and envisages special measures for these vulnerable groups. Among the measures envisaged is the provision of suitable

accommodation for vulnerable foreigners, especially victims of THB, persons who were granted asylum or supplementary protection, and unaccompanied children.

As part of the Directive transposed into Act No 204, on 25th June 2013, abduction was introduced as a new instrument and forced begging as a form of forced labour, alongside forced marriage were brought into the realm of trafficking offences. The Criminal Procedure Code introduced increased protection to limit confrontation of child victims with traffickers. The State was clear about minimising the risk of child victims being subjected to additional abuse by preventing direct contact with perpetrators.ⁱ

4.2 How are child victims identified?

One way in which child victims are identified is as a result of the provision of training, which enlightens people who might otherwise be entirely unaware.

TRAINING PROFESSIONALS

This is an area which has occupied the attention of GRETA in raising the standards of identification in the Slovak Republic. A range of training programmes have been undertaken over the last five years.

In 2011-2012 an official from the Border and Alien Police was involved in the drawing up of a Frontex manual on the identification of all victims of trafficking and traffickers in the context of inspections at external borders of the Schengen Agreement States and this official subsequently trained Frontex national trainers. There are two trainers in the Border and Alien Police who provide training to other police officers.

In February 2013, 25 border police officers were trained on the basis of the Frontex manual. In 2014, 60 more officers working at border control points received training. The training module entitled “Identification of THB” covered the provision of information about institutions co-operating in the implementation of the programme for support and protection of victims of trafficking, indicators of THB, detecting and distinguishing trafficking offences from other crimes, and interviewing victims. Further, training of employees of the Migration Office and staff of detention centres and asylum facilities took place in 2013 and further training is planned in 2015.

In 2011, a total of 151 different professionals were trained on THB-related issues, including representatives of the Ministry of Education, Science, Research and Sport, prosecutors, judges and police officers. In 2012, some 508 persons received training, including police officers, specialists working in Roma communities, employees of

children homes, staff of offices of labour, social affairs and family, labour inspectors, social workers, as well as staff of the Ministry of Foreign and European Affairs. In the course of 2013 training was provided to a total of 380 persons, including representatives of religious communities, municipal officials, municipal police officers, social workers, employees of the Migration Office of the Ministry of the Interior, health-care professionals, police officers working in Roma communities and police officers trained to participate in international missions. This training process is ongoing.

5. DATA COLLECTION.

In 2011-2013 the Ministry of the Interior implemented an EU-funded project entitled “Prevention and Extended Harmonised Data Collection System of Trafficking in Human Beings”. Based on this project, on 22 April 2013 the Minister of the Interior issued Regulation No. 66/2013, which sets out the modalities for the operation of an information system on trafficking in human beings. The system became operational on 1 May 2013 and is now accessible round the clock. The application for accessing the information system is located in the Ministry of the Interior and only authorised users may connect to it via the Intranet of the Ministry.

Police officers who investigate cases of THB have secured access to the integrated data collection system on THB and insert information on offenders and victims after bringing charges, including on victims who were not included in the protection programme. The statistical data collected by the Information Centre is disaggregated according to a number of criteria: sex, age, country of origin and/or destination, and type of exploitation. Data is collected also on offenders and criminal cases initiated for THB, with the possibility of comparing data on victims and traffickers.

6. ASSISTANCE – LEGAL AND PROFESSIONAL

The Council of Europe action on Trafficking was ratified in the Slovak Republic in 2007 and entered into force in 2008.

Assistance and Reintegration

The Slovak Constitution only mentions the right to special protection at work, and the right to upbringing and care, and the guarantee of special protection. The principle of best interest of the child is not mentioned and/or defined in Slovakia or Hungary. In Bulgaria the principle is proclaimed in the Law on the Protection of

Children (Art. 3, item 3 and a definition in par. 1, item 5 of the Additional Provisions) and in the Law on Asylum and Refugees (Art. 6a)

After the adoption of the EU Framework Decision, Slovakia amended its legislation in order to follow the provisions of the EU Framework Decision.ⁱ Even though Slovakia has so far not adopted any specific or separate legal act dealing with trafficking in children and all its aspects, several Slovak legal acts deal with the issue. The most important legislative provisions concerning THB are stipulated in the CC and specifically in Articles 179, 180 and 181. In Slovak law, the definition of THB is provided in Article 179 of the CC (“trafficking in human beings”) which states:

“(1) He/she who by means of deception, deceit, restriction of personal freedom (limitation of personal liberty), violence, threats of violence, threat of another severe injury or other forms of coercion, adoption or provision of money or other benefits to achieve the consent of the person on which the other person is dependent, or abuse of his/her position or abuse of the vulnerability, or otherwise vulnerable position deceives, transports, keeps, gives, or takes another, even with his/her consent, for the purpose of prostitution or other forms of sexual exploitation, including pornography, forced labour or forced services, slavery or practices similar to slavery, servitude, removal of organs, tissues or cells, or other forms of exploitation, will be punished by imprisonment for four to 10 years.

(2) As in paragraph 1, he/she shall be punished who deceives, transports, keeps, gives or takes any person under 18 years, even with his/ her consent, (...).” As regards trafficking in children, the definition of trafficking contains only two of the above elements, i.e. the action and the purpose of exploitation, irrespective of the means used. This is in line with the definition contained in the Council of Europe Convention. In addition to Article 179 of the Criminal Code, trafficking in children is also governed by the provisions of Articles 180 and 181 named (“trafficking in children”) of the Criminal Code. More specifically, Article 180 defines “placing a child under the control of another for the purpose of adoption in breach of general rules” as one of the forms of THB. However, it is not in line with paragraph 94 of the Explanatory Report of the Council of Europe Convention which states that “the definition of trafficking in human beings does not refer to illegal adoption as such”.ⁱ

Nevertheless, where an illegal adoption amounts to a practice similar to slavery as defined in Article 1(d) of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery, it will also fall within the Convention’s scope”. Finally, Article 181(1) of the Criminal Code states that “anyone who, in return for a reward, refers a child in the charge of another person for the purpose of its use for child labour or for other purpose shall be sentenced to four to 10 years of imprisonment.” According to the Slovak authorities

this concerns only parents or legal guardians of a child, thus having a narrower scope than Article 179 of the Criminal Code. The Ministry of Justice intends to perform an analysis of all criminal provisions relating to THB with a view to identifying duplications and ambiguities in the interpretation of the definition of THB as a criminal offence.ⁱ

In Slovakia, there is no separate section relating to the standing of the child during pre-trial or trial proceedings. The special approach is usually stipulated in concrete provisions related to adults by adding special article or provision on persons younger than 18 years of age. However, in cases of violation or threat of the rights of a minor, he/she has the right to the protection of his/her rights and legally protected interests at the court. Under Slovak law, (as in the UN definition) majority is reached at the age of 18. Criminal law defines a child as a person younger than 18 years of age. General legal capacity is obtained by reaching majority. However, even before reaching majority, Slovak law recognises capacity for legal acts, which are adequate to the intellectual and mental maturity corresponding to relevant age. When a child is in a position of witness, Article 135 (1) of the Act on Criminal Procedure (hereinafter, the CPA) grants special approach towards a person younger than 15 years of age. The interrogation is conducted in the presence of a pedagogue, psychologist, vetted expert, possibly a legal representative and also other people who have experience with the education of youths.

The procedure of law enforcement agencies is governed by the Act. 301/2005 Coll. the Criminal Code. In accordance with § 2 article 20 of the Criminal Procedure Code, there is a responsibility of the investigator prior to the examination of the witness - properly instruct a victim in their mother language. If the interviewee does not know the Slovak language in word or in writing, the investigator is obliged to engage an Interpreter for the hearing in a language the interviewee understands. If the party to an action declares that they do not speak the language in which the proceedings are conducted, then they have the right to an interpreter and a translator.

6.2 Are there LEGAL PROVISIONS to appoint a LEGAL GUARDIAN when a child victim of trafficking is identified in the country?

No. The law does not require the assistance of the legal representative or a Guardian when a child is in a position of witness, but the court may order that a child must have a legal representative during proceedings. The presence of a legal representative is usually required in cases when it may help with the undertaking of a proper interrogation. In other stages of the proceedings, the child should be

interrogated only in exceptional cases and in the pre-trial proceedings only with the consent of the prosecutor (Article 135(2) CPA. These provisions only hold for those between the ages of 15 – 18 and should not be able to be applied to any younger than 15 according to GRETA.

This also holds for child witnesses. Even though this provision is not present in the part of the CPA which regulates the position of a damaged person, in the majority of cases a damaged person (such as a victim of crime) is also in a position of a witness because he/she provides evidence of a crime. Persons between 15 and 18 years are not entitled to a special approach and protection from cross-examination in court, because the relevant Articles grants it only to children younger than 15 years of age. Furthermore, the Slovak legal system does not explicitly exclude child victims of trafficking from criminalisation, should their behaviour be considered a crime.

There are a few provisions in relevant legislation preventing such a child from being punished with criminal penalties (e.g. age of criminal liability, termination of criminal proceedings by prosecutor or judge in case of THB victims, mitigating factors stipulated in the Criminal Code, exceptional reduction of punishment). Section seven of the CPA is entitled *The Damaged Person* and Article 48 regulates the criminal proceedings with respect to a child in a position of a damaged person. In this case, a child is represented by his/her legal representative, usually a parent. But in cases where a crime is committed on a close or entrusted person, when a damaged person is below the age of 18, a Legal Guardian is appointed by the court.

The Legal Guardian is usually a state body or delegated representative of an organisation for the protection of victims. The Legal Guardian is appointed by a Judge for the pre-trial proceeding based on the proposal of a prosecutor. In the same way, the Legal Guardian is appointed for the damaged person who is incapacitated or has restricted capacity for legal actions. According to Article 2 (20), if the accused, his legal representative, damaged person, participating person or witness, announce not having command of the language in which the proceedings are pending, there is the right to an interpreter or translator.

The Slovak CPA adheres to the **principle of officiality** (Article 2(6) and stipulates that the bodies active in the criminal proceedings are obliged to act from their official duty “ex officio” and the investigation and prosecution is not dependent only on the notion from/reporting by the witness or damaged person.ⁱ

Slovakia has a recent Act concerning the welfare and legal protection of children, which shall guarantee the full protection and care to the child, including unaccompanied children within the territory of the Slovak Republic, in his/her best interest.ⁱ Any action involving children shall be executed in accordance with the Act

on Welfare and the Legal Protection of Children. According to law “welfare and legal protection of children shall mean a set of complex measures to safeguard the protection of a child and which are necessary for the benefit of the child and which shall respect his/her best interest according to international treaty.”

The term “child” shall include: a child (a person below 18 years of age) with permanent residence, temporary residence, or tolerated residence; a child (below 18 years) with Slovak citizenship living outside the country; a child (below 18 years) who is not a Slovak citizen but is living unaccompanied in the Slovak Republic. According to the Act, all the authorities executing measures on the law on the welfare and legal protection of children are responsible for protecting Children’s Rights from threat and/or damage and all the authorities are obliged to guarantee all the necessary protection essential for children’s benefits and protection of their interests.

Apart from the above-mentioned provisions of the Act on Welfare and the Legal Protection of Children, there are *no special provisions for establishing the principle of the best interest of the child as a primary consideration for all actions affecting children*. The Constitution does not lay down such a principle. Therefore, it is necessary to use the combination of the definition of the “best interest” principle defined by the law and by the international standards and to enforce it by using direct applicability of the International Conventions and Treaties as set up by the Constitution.

7. Provision - Protection of the Child

7.1 Are there LEGAL PROVISIONS in the country that automatically grant TEMPORARY ‘right to remain’ if the child is a foreign national?

Yes. As far as trafficked persons under 18 years, general legislative provisions on the social protection of children and social guardianship are to be followed.

Foreigners – by the Act on the Residence of Foreigners - who are adult victims of trafficking may be guaranteed tolerated residence in the Slovak Republic for a minimum of 90 days and for a maximum of 180 days.

If a foreign unaccompanied child is suspected of being a victim of THB, he/she may obtain tolerated residence by virtue of being unaccompanied in the Slovak republic, as would any other unaccompanied child regardless of whether they are victims of trafficking (hereinafter VoTs) or not, according to the Act on the Residence of Foreigners. None of the legal provisions guarantees a “reflection period” of a minimum of 30 days for child victims of trafficking, but only a ministerial decree (not

generally binding) of 90 days for all victims, including children. So far, no unaccompanied minor has been suspected or identified as a victim of THB.ⁱ

Article 179 of the Criminal Code also stipulates conditions for increased protection of child victims with possibility to limit confrontation of child victims with offenders (traffickers) in case of the criminal offence of human trafficking or offences against human dignity.ⁱ

In Slovakia, according to statistical information provided by the authorities of the Ministry of Interior (hereinafter, the Mol), all victims of THB identified in 2008 and 2009 were Slovak nationals and the numbers were quite low.ⁱ Given the fact that Police statistics indicate high numbers of procurement/pimping cases in Slovakia, in which child victims are involved, it would appear that many THB with child victims are being investigated, prosecuted and tried as procurement/ pimping cases.

There are shortcomings in the processes for the identification of child victims of trafficking. At present, there are no special procedures for the referral of trafficked children to the social protection authorities. The Slovak authorities drafted a tool intended to assist Social Workers in identifying child victims so as to provide protection and assistance to them.

However, this internal standard does not establish division of work that would have the potential of even an informal NRM. Furthermore, the National Programme to Combat THB for the years 2011- 2014 elaborates on coordination activity in cases involving trafficked children and foreigners, which is relevant to the identification of victims of THB. Recognition of victims of THB as such is essential for further protection and assistance measures; unfortunately, the status of a “victim of THB” is not defined by law.

The only relevant definition is contained in Regulation No. 47 of the Minister of the Interior binding to the Ministry of Interior of the Slovak Republic. The status of being a victim of THB under the above-mentioned Regulation is given to any person who accepts to be included in the Programme of Support and Protection of Victims of Trafficking in Human Beings, implemented by the Ministry of the Interior in co-operation with NGOs on the basis of specific contracts. Victims are also informed about the possibility to enter the Programme of Witness Protection, financial compensation, and the possibility of obtaining permanent residence (if this is in the interest of the Slovak Republic).

However, no examples could be given in this respect as no foreign child victims have been formally identified so far. The absence of a proactive approach to the identification of child foreign victims of THB creates a risk that a number of such victims remain unidentified and without any assistance. The Slovak identification

system relies heavily on self-reporting, and/or on the return of already identified national victims from abroad. In the absence of a functioning National Referral Mechanism (NRM) and formalised procedures for the referral of trafficked children to the Social Protection Authorities, there are serious shortcomings in identifying and assisting child victims. The Social Protection Authorities do not hold a prominent role in the process. The number of identified child victims of trafficking in Slovakia remains extremely low as can be seen from the data sheet below.

Since 2008 there has been a free National Helpline for Victims of Trafficking in co-operation with the IOM and Slovak Telekom. Although primarily aimed at preventative information for those seeking to travel abroad, it has also been a space where there has been first contact made with potential victims of Human Trafficking. This has been aligned with a number of 'info-mobile' projects where public transport, information hoardings and buildings within residential camps of the Migration Office and various embassies – as part of a campaign with the following message 'without information you are becoming a slave.'

The Ministry of Labour, social affairs, family, National Labour inspectorate, judges, prosecutors, foster homes, police, staff of the migration office and a number of NGOs have now received training on identification of Human Trafficking. It is hoped that this training will result in enhanced referrals and interdictions of the trafficking crime in all its varied manifestations. But the number being trained each year is low – around 285 people within the Ministry of the Interior; 123 per year with targeted members of the Police force, the Office of Labour, Social affairs and family, Labour Inspectors and Social wWorkers.

In 2012, there was a concerted effort in crime prevention seeking to focus on young people and parenting – *'Do you know what your child is doing right now, in shopping centres in Koxice, Bratislava and Ruzomberok?'* The campaign explored drugs, alcohol, gambling, social networks and trafficking in human beings.ⁱ

Statistical data

	2009	2010	2011	2012	2013	2014	2015
recorded crime	9	9	19	23	11	15	14
detection rate	3	1	1	2	1	10	2
additional detection rate	2	2	4	6	4	6	2

Source: The National Unit of Combating Illegal Migration of Bureau of Border and Alien Police Force Presidium

	2009	2010	2011	2012	2013	2014	2015
No. of included victims	25	28	31	22	30	34	25
women of them	15	13	17	13	19	22	8
men of them	9	13	13	6	9	12	17
child of them	1	2	1	3	2	-	-
Purpose of exploitation	SE-16 FL-7 FB-2	SE-11 FL-11 FB-2 EE-4	SE-12 FL-12 CE-4 FB-2 FM-2	SE-15 FB-5 FL-3 FM-3	SE-15 FL-10 FM-7 FB-2	FL-12 SE-13 FM-9 FB-6 CE-1 S-1	FL-17 FB-5 FM-4 SE-2 CE-1

Abbreviations: SE- sexual exploitation, FL- forced labour, FB- forced begging, FM- forced marriage, CE – exploitation of criminal activities, EE – economical exploitation, S - slavery

The National Action Plan for Children and Youth 2013 – 2017 recognised that there was an important requirement to:

- Establish an independent institution for the protection of Children's rights in accordance with the Paris Principles (point 16 of the concluding observations of the committee on the Rights of the Child)

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- b) Design and implement a means for monitoring funds allocated from the state budget of children's economic, social and cultural rights.
 - c) Systematic reorganisation of data collection and statistical monitoring in accordance with EU and UN classifications to permit comparisons of progress achieved
 - d) Implement the principle of zero tolerance to corporal punishment and other gross or humiliating forms of punishment in all settings, including the home

The overall objective of the National Action Plan for Children is committed to increasing awareness of the content and the practical application of the general principles of the Convention, achieving progress in their application in a range of specific applications of the Convention on the Rights of the Child amongst a range of other applications:

1. Defining and identifying vulnerable and disadvantaged groups of children to guide measures and enhanced safeguards against discrimination for children at risk.
2. Making it possible for children and young people to express their opinions actively on policies that affect them and creating and developing mechanisms to ensure their views are taken into account.
3. Ensuring that children enjoy all the rights guaranteed by the Convention on the Rights of the Child, as a result of the implementation of the convention on the rights of the child and its optional protocols.ⁱ
4. Creating a public institution protecting the rights of children in accordance with the Paris Principles.
5. Ensuring Transparent, clear and easily identifiable setting, allocation and monitoring of expenditure – 2015 and following
6. Strengthening the system for collecting aggregate data as the basis for evaluating progress achieved in implementing the rights of the child.
7. Increasing policy makers' awareness and information in relation to the Convention on the rights of the child
8. Improving systematic training for all professions working for and with children (education on Children's Rights including activities focussing on the most vulnerable groups.)
9. Educating judges, prosecutors, trainee prosecutors, trainee judges and court officials whose work relates to children.
10. Implementing the concluding observations of the UN Committee on the Rights of the Child on the initial report of Slovakia on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. (Ministry of Interior with Committee for Children and Youth)

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11. Implementing the Concluding Observations on the UN Committee on the Rights of the Child on the initial report of Slovakia on the Optional Protocol on the Involvement of Children in Armed Conflict. (to be supervised through the Ministry of Defence and the Committee for Children and Youth)
 12. Improving the quality and effectiveness of measures to provide children with the necessary protection of their welfare and provide for their best interests in accordance with the convention.
 13. Promoting children's social inclusion (education and child care)
 14. Supporting deinstitutionalisation of substitute care.
 15. Improving the quality of crisis interventions and other specialist methods for supporting children and families in crisis.

8. PERMANENT / TEMPORARY RESIDENCY

We were unable to obtain information on this subject, which is an area of concern that the data is not available through desk research.

9. REPATRIATION – DATA

Facilitating the return of Slovak victims of THB or habitual residents of the Slovak Republic is carried out once a victim has been identified by the competent authorities of another country. After repatriation a victim may request to be included in the Program of Support and Protection of Victims of Trafficking. Victims of THB (including child victims) are repatriated with the assistance of the International Organisation for Migration (IOM).

According to the Slovak Government, the repatriation and return of foreign victims of THB is carried out under the Act on the Residence of Foreigners and the Act on Asylum. The examination and decision-making in cases concerning the return of victims falls within the competence of the Department of Alien Police. The return is organised by the office of the IOM in Bratislava under a co-operation agreement with the Ministry of the Interior.

Since no foreign victims have been identified by the authorities, this provision has not been applied as yet.

There are no agreements or procedures for the safe return of foreign child victims to their country of origin. There is no risk and security assessment. There are no formalised procedures on how trafficked children are received in Slovakia upon their return. There is no provision for appropriate services (by an appointed social services worker/legal guardian/parent) . There are no clear national

guidelines/directives to assist in determining how and where family reunification can be achieved for unaccompanied children, not to mention the lack of determination of the best interest of the child or a full risk and security assessment.ⁱ

10. VICTIM ASSISTANCE

There are several non-governmental organisations dealing with issues relating to THB, actively working against it and facilitating immediate accommodation and recovery assistance to victims. These include:

- a) DOTYK – Slovak Crisis Centre focuses on providing accommodation and assistance to victims of trafficking and domestic violence, both adults and children.
- b) The Civic Association Náruč runs a crisis centre and offers shelter and protection to adult and child victims of domestic violence as well as child victims of abuse, including child victims of trafficking.
- c) The Children’s Home in Topoľčany has recently been designated to provide accommodation and care to child victims of THB during their re-integration.
- d) Caritas - the Slovak Catholic Charity which runs programmes of assistance to victims of trafficking

Assistance to child victims, accommodation is provided by the Civic Association Náruč, the Children’s Home in Topoľčany, and in general by the offices of the authorities for the social and legal protection of children and social guardianship

Assistance in the reintegration of victims of THB and voluntary returns is mainly provided by the Office of the IOM in Bratislava, DOTYK – Slovak Crisis Centre and the Caritas.

Other NGOs co-operate with the Ministry of the Interior and some of them are also represented in the Expert Group. The largest portion of activities focused on victims of THB is covered by the Office of the IOM in Slovakia which runs assistance and return programs and closely cooperates with the Ministry of the Interior.

Capacity of NGO sector .

Only a few of the aforementioned organisations are able to provide services or conduct research on issues relating to THB. This may be a result of the low financial and human resources within the NGO sector as well as the procedures involved in conducting activities and providing services. There is room for development in this area. The impact and capacity of the NGO sector to provide insights on the sections

of Slovakian society particularly vulnerable to child trafficking, as well as assisting with the recovery programmes required and reintegration challenges which occur alongside the detection of trafficking cases is limited.

11. GOVERNMENT POLICIES and ACTION PLAN for PREVENTION

11.1 Who is Responsible for the Fight against Trafficking?

The Ministry of the Interior is the leading governmental body responsible for fighting trafficking in human beings and for creating efficient anti-trafficking policy. The Department of Parliamentary, Governmental Agenda and Advisory Activities of the Office of the Minister of the Interior is responsible for action against THB. The State Secretary of the Ministry of the Interior is a National Co-ordinator for Combating THB within the National referral system. Since 2006, the Ministry of the Interior runs the Programme of Support and Protection of Victims of Trafficking in Human Beings in cooperation with other state bodies and non-governmental organisations. The Ministry of Interior established a multidisciplinary Expert group in 2008. This Expert group is led by the National Co-ordinator for combating THB and is composed of various representatives from governmental bodies and non-governmental organisations.

In 2010, the Ministry of the Interior (MoI) created and established the Information Centre for Combating Trafficking in Human Beings and Crime Prevention in Košice as its structural unit, which was charged with the task of collecting and processing data on THB. As the MoI also heads the Police, the issues relating to combating THB as one of the forms of organised crime are dealt with by the Division of the Office for Combating Organised Crime of the Presidium of the Police Force. The combating of THB is assigned to the regional and district headquarters of the police and their activities, which has national competence, are co-ordinated by the Division of Trafficking in at the Police Corps.

Other Ministries and state authorities are also involved in antitrafficking activities, mainly through the Expert group membership and their own agendas, (par 17., Ministry of the Interior of the Slovak republic, Order No. 22 of the Minister of the Interior (30 June 2008) establishing an Expert group for the area of the fight against trafficking in human beings, as amended by Order No. 50/2011 of the Minister of the Interior (1 April 2011).').

12. Implementation and Monitoring:

National action plan and National Referral Mechanism

The National Programme to Combat Trafficking in Human Beings 2011 – 2014 was adopted by the Slovak Government in 2011. In reviewing the work undertaken by the 2009-2012 plan – it was decided that there should be a further action plan for 2013 – 2017, with a yearly reporting structure so that improvements and gaps in provision could be addressed with greater speed, rather than awaiting the overview compiled at the end of the programme.

The evaluation of the National Action Plan is monitored by a range of different authorities.

On the level of State administration, the Committee for Children and Youth, is the competent authority that has the budgetary funding to carry out its work. It has established co-operation with the Council of Europe, and a number of key agencies working on the Rights of Children and Young People, and undertakes research and the dissemination of information.

On the level of independent human rights institutions with the coalition for children which is the body bringing together a range of Non-Governmental Organisations with a long-term interest in topics affecting children and young people in Slovakia and includes minors and youths up to 26 years of age.

The Slovak government hopes that the evaluation system be improved by the introduction of fresh indicators derived from across these sectors above.

The National Action Plan for Children is expected to interface with the National Action plan against Trafficking in Human Beings, but there is no separate section within the Action plan on children.

There have been a number of National Action campaigns to raise awareness on Child Trafficking. However, what is required is a sustained series of interventions to see a systemically altered resilience built into Slovakian culture around the abuse of children, and the delivery of a high end system of protection which feeds back into a wider awareness of the challenges faced by Slovakia.

A National Communication campaign on THB was created by the Ministry of the Interior in cooperation with IOM office and was launched in the media on the European Day against THB (18th October 2011)

In 2009, the “HELP” campaign was launched by the Ministry of the Interior in co-operation with the IOM office and aimed to inform the public about a range of specific provisions:

- a) the existence of a National Helpline for victims of THB
- b) Awareness-raising initiatives
- c) Initiatives for Employees of the Department of Socio-Legal Protection of Children and Social Guardianship
- d) Training for the respective local departments on identifying child victims of trafficking.

13. ASSESSMENT and RECOMMENDATIONS.

Clear Gaps in Provision

Currently, there are no formalised programmes aimed at providing specialised training for the identification of trafficked children, including for police forces, youth welfare officers, social workers, health professionals, NGO staff active in areas such as refugee protection and migration, that are apparent from the documentation which has been accessed.

Data protection initiatives

There are currently no special initiatives aimed at protecting the personal data of trafficked children. The Information Centre for Combating Trafficking in Human Beings and Crime Prevention has the task of collecting THB related data Initiatives to improve reception conditions. However, there are no publicly available evaluations regarding the adequacy of reception conditions for children who are returned to Slovakia, or those who are currently in Slovakia and could be returned to their home country for the purposes of family reunification.

[Re]integration initiatives

Currently there are no specific reintegration policies/programmes aimed at providing for a child victim’s safe, dignified and sustainable reintegration into society.

Assessment from US TIP and Recommendations

The US State Department’s decision in 2017 was to place Slovakia in Tier 1, which signifies that in the eyes of the US the Slovak Republic fully meets the minimum standards for the elimination of trafficking. The Report stated, “The government ‘demonstrated serious and sustained efforts by increasing investigations and collaboration with foreign law enforcement authorities to identify and prosecute traffickers. The government proactively identified more victims and launched

extensive trafficking prevention and public awareness campaigns to engage the general public and at-risk populations.”

Although the government meets the minimum standards, it does not adequately identify foreign trafficking victims. Legal support to victims was seen as inadequate, and victims who cooperated with prosecution were at risk of re-traumatisation. The government supported some innovative prevention activities, but NGOs continued to report that they were not given adequate time to prepare effectively for the expert working group.

Recommendations from US TIP 2017, that:

- Th Sustained attention be given to issues pertaining to investigations, prosecutions, conviction and sentencing.
- Training of Judges, prosecutors and investigators around a victim centred approach be done.
- Training for government officials and border police on vulnerable groups, for proactive victim identification be carried out.
- Clarification of formal written procedures for victim referral be put in place.
- Improved legal assistance be provided to victims
- Facilitation for consultation with NGOs in the Ministerial expert group be improved
- Improved data on the Slovak victims of trafficking who are interdicted abroad, and foreign trafficking victims who are ‘rescued’ or disclosed in Slovakia itself be collected. ⁱ

In specific relation to Children the TIP report noted that in 2011, through a contribution of the Norwegian and Finnish governments, the Council of Europe had organised training courses to prevent human trafficking of Roma children from Albania, Moldova and Slovakia. Other efforts to raise training around identification of risk to children from Slovakia have been mounted by other State parties, and some progress made. However, the requirement for continued interactive training to front line responders, particularly those who are in a ‘gatekeeping’ capacity – border guards, terminal /port personnel, as well as city based police - is critical to see the ‘open doors’ closed down on Roma and the trafficking of children from other vulnerable groups.

More recently the IOM has developed an App ***SAFE Travel & Work Abroad*** – which is designed as an ICT initiative to address the abuse of recruitment organisations enticing young people to travel outside of Slovakia:

“Be prepared, spread the word, and recognise the signs” is the tagline of a free new mobile application called **SAFE Travel & Work Abroad** to raise awareness about the risks of human trafficking through an interactive game.

Designed as a preventative and educational tool, the application presents a scenario where four main characters are planning journeys abroad. The App user, steps into their shoes and makes decisions that will influence the direction of their lives, confronting and learning about the pitfalls of human trafficking along the way.ⁱ

The key communities at risk in Slovakia remain those largely on the periphery of large educational establishments with resources into the ICT world. Those who are in State or Independently-funded Orphanages, and Roma children are still seen at significant risk of being trafficked.

Bearing in mind that no victims of THB have received compensation either from perpetrators or from the State, GRETA urges the Slovak authorities to:

- adopt measures to facilitate and guarantee access to compensation for victims of trafficking;
- Investigate proactively, prosecute successfully and lead to effective, proportionate and dissuasive sanctions;
- Carry out financial investigations systematically to locate the proceeds of crime and other assets of the traffickers;
- ensure that the offence of THB is excluded from the plea bargaining procedure.

In the 2013 Report, GRETA review urged the Slovakian authorities to ensure that child victims of THB are afforded special protection measures taking into account the best interests of the child. The police, prosecutors and judges, as well as social workers acting as Legal Guardians of children, should be trained and made aware of the particular vulnerability of child victims.

With reference to GRETA’s first Report (2013), the Slovak authorities adopted the new terms of reference of the Expert Group for the Area of Combatting Trafficking in Human Beings and introduced a procedure for selection of NGOs to participate in the work of the Expert Group. The Ministry of Interior adopted a new regulation no-180/2013 which sets out formal identification of victims of trafficking with a view to enabling their access to State-funded assistance. The Slovak authorities followed GRETA’S recommendation concerning the non-punishment of victims of trafficking who have been compelled to be involved in unlawful activities.

Finally there has been a call from the 6th General Report on Greta's activities, for attention to the new Council of Europe Strategy for the Rights of the Child (2016-2021) adopted in April 2016, with the identification of its key five priorities. One of these is directly aligned to the fulfilment of the Convention on Action against Trafficking in Human Beings - the protection of children from violence - and thus always on GRETA's mandated areas of monitoring and concern.

GRETA further reminds all countries which have been affected by the Refugee 'crisis' of the last four years to pay attention to the shared responsibility of all countries for the protection of children in migration and seeking asylum. GRETA calls for greater efforts in countries where the identification of child trafficking is exceptionally low to address its meaning and to ensure disaggregation by sex, and type of exploitation, whilst ensuring training is in place for those front line workers who are in the position to identify trafficking offences in their areas of responsibility and service delivery.

The following table shows a surprising range in the identification of child victims in the last 3 years covered by GRETA's reporting period.

This table serves us well to consider the few numbers identified in Slovakia over the last 5 years.

Country	Child victims of trafficking identified in 2012-2015	Proportion of child victims of trafficking (identified adult/child victims)		Notes
Albania	179	43%	(421/179)	
Austria	11	4%	(255/11)	2012-2014
Bulgaria	196 (153 girls and 43 boys)	10%	(1917/196)	2012-1 st half 2015
Croatia	38	51%	(74/38)	
Cyprus	5	3%	(151/5)	
Denmark	15	5%	(306/15)	
Georgia	4	5%	(79/4)	
Montenegro	8	53%	(15/8)	
Republic of Moldova	147	13%	(1126/147)	
Romania	1276	36%	(3574/1276)	
Slovak Republic	6	8%	(71/6)	
United Kingdom	2476	29%	(8538/2476)	Presumed victims
TOTAL	4361	26%	(16527/4361)	

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Ukraine

Prepared by Rev Dr Carrie Pemberton Ford , Anna Marta Rosinska and Halyna Onyshko.

Country Overview.

Ukraine is the second largest country in Europe with a surface area of 603, 550 km². It borders the Black Sea and shares approx. 4,570 km of land boundary with Russia, Moldova, Romania, Hungary, Slovakia, Poland and Belarus. (Ukraine Consulate in NY 2007 http://www.ukrconsul.org/BASIC_FACTS.htm). Because of the country's geographical location, Ukrainian culture has been influenced by the cultures of both western Europe and Russia.

Since independence in 1991, Ukraine has been divided into the Autonomous Republic of Crimea, 24 administrative regions (oblasts) and two cities with special administrative status, Kiev and Sevastopol. A significant minority of the population uses Russian as its first language, particularly in the cities and industrialised east.

More than two-thirds of the population lives in urban areas. High population densities occur in south eastern and south-central Ukraine, in the highly industrialized regions of the Donets Basin and the Dnieper Bend, as well as in the coastal areas along the Black Sea and the Sea of Azov. Portions of western Ukraine and the Kiev area are also densely populated.

Russia and local pro-Russian paramilitary groups have been in control of Crimea since March 2014, where ethnic Russians make up about 60% of the population. The Crimean Parliament voted unanimously to secede from Ukraine and join Russia. The vote is contested by Kiev and not recognised by most of the international community. (SSCU 2004 <http://2001.ukrcensus.gov.ua/eng/regions/>)

Television dominates the media scene, and private commercial channels are the most watched outlets. As part of reforms, Ukraine launched a public-service TV broadcaster in 2015. Many newspapers publish Ukrainian and Russian-language editions. The press is diverse in terms of formats and political affiliation.

The social changes brought about by Ukrainian independence are most evident in the cities, particularly Kiev. The country's capital now boasts high-end stores catering to a moneyed class, and a fashionable strip with contemporary art galleries and cafés winds its way down the historical street of Andriyivskyi Uzviz. The capital's renovated airport stands in striking contrast to its decidedly dour appearance in Soviet times.

While the urban areas are particularly modernised, rural areas remain largely undeveloped, where the *khata* ("house") is still found, made of mud and thatch and typically whitewashed. These homes often contain such traditional handiwork such as embroideries, weavings, handmade feather duvets and oversized pillows. Their inhabitants are predominantly elderly Ukrainians.

Modern life and western culture has impacted on the socio-cultural settings of Ukraine, where people are increasingly influenced by the West. A low birth rate coupled with an aging population and low rates of migration into the country, contributed to a sharp population decline that extended into the 21st century. Millions of Ukrainians—especially those from the western part of the country—sought employment abroad. By 2010, roughly one in seven Ukrainians was working outside the country. These labour migrants most often sought work in Russia and the EU, predominantly employed in construction and domestic service. (<https://www.britannica.com/place/Ukraine/Languages#ref30103>)

Since 1991, more than 160,000 men, women and children have been exploited for labour, sex, forced begging and organ removal, according to a [mid-2015 report](#) from the International Organization for Migration (IOM).

GRETA's first-ever report on Ukraine's anti-trafficking programme, published in September 2014, acknowledged poor coordination among government ministries. The executive interdepartmental council on human trafficking—headed by ministers, deputy ministers and representatives from civil society—has not convened for five years. (<http://www.newsweek.com/ukraine-human-trafficking-416319> Jan 16, 2016).

GRETA's second evaluation visit to Ukraine, four years later (Oct. 2017) provided an opportunity to assess progress in the implementation of the *Council of Europe Convention on Action against Trafficking in Human Beings*. It states:

"Ukraine is a source, transit, and destination country for men, women, and children predominantly subjected to forced labour and to a lesser extent, to sex trafficking. Ukrainian victims are subjected to sex trafficking and forced labour in Ukraine as well as in Russia, Poland, Turkey, the United States, and other parts of Europe, Central Asia, and the Middle East. Ukrainian women and children are subjected to sex trafficking within the country. Some Ukrainian children and vulnerable adults are subjected to forced begging. A small number of foreign nationals, including those from Moldova, Russia, Vietnam, Uzbekistan, Pakistan, Cameroon, and Azerbaijan, are subjected to forced labour in Ukraine in a variety of sectors including construction, agriculture, manufacturing, domestic work, the lumber industry, nursing, and street begging; experts report the number of foreign victims in Ukraine has fallen dramatically since the beginning of hostilities in eastern Ukraine. Although the government lacks a centralized system for tracking migrants, the government reported that it continued to be a route for human smugglers attempting to smuggle people between Europe, Central Asia, and the Middle East; such migrants are vulnerable to human trafficking en route or in Ukraine. The approximately 82,000-200,000 children institutionalized in state-run orphanages were especially vulnerable to trafficking. Officials of several state-run institutions and orphanages were allegedly complicit or willfully negligent in the sex and labour trafficking of girls and boys under their care." <https://www.ecoi.net/en/document/1402497.html>

Due to coordinated and persistent hard work of many Government agencies involved in combating human trafficking, Ukraine has been upgraded to Tier 2 in the 2017 TIP Report.

1. EXTENT AND PATTERNS of CHILD TRAFFICKING in the COUNTRY

1.1 Is child trafficking recognised by the Government?

Yes. There is a commitment to implementing Order No. 648 issued on 29 October 2003 by the Cabinet of Ministers - ratifying the plan of action giving effect to the policy framework to prevent and eradicate the worst forms of child labour, The Order No. 766, of 5 June 2002, by a Cabinet of Ministers to implement comprehensive programme 2002-2005, to suppress trafficking in persons. The Ministry of Education and Science, together with the Ukrainian Red Cross and the

Ukrainian Women's Consortium, with the support of the International Organization for Migration (IOM) offices in Ukraine, prepared the way for educational activities to be carried out in schools preventing child trafficking.

The aim is to offer children greater protection from violence and exploitation in all its forms and to increase awareness among teachers and youths in school and of the problem of child trafficking and the means of combating it. On 10 November 2005, the Ministry issued Order No. 649 calling for awareness and educational events at schools on the prevention of child trafficking in the period 2005-2007. The results of this included:

- A national practical and scientific seminar was held in Kyiv on 31 October and 1 November 2006, *"Prospects of developing principles for the joint organization, by Government agencies and non-governmental organizations (NGOs), of social and educational activities to prevent human trafficking."* Experts from the Ministry of Education and Science of the Autonomous Republic of Crimea and the Education and Science departments of the provincial and Kyiv and Sebastopol municipal Governments took part, along with the heads of provincial centres for consulting psychology and social work;
- Cooperation is continuing between the Ukrainian Scientific and Methodological Centre for Clinical Psychological and Social Work, the Ukrainian Red Cross and the Ukrainian Women's Consortium;
- District and municipal learning resource offices are being supplied with educational videos for children and young people between the ages of 16 and 19 on the problem of combating human trafficking. These include films entitled *"Destination: Life"* and *"Victims of Silence"* There is also a handbook for Trainers entitled *"How to raise awareness of the problem of human trafficking"* and a handbook with the same title for pupils and students, published by the IOM office in Ukraine;
- Postgraduate education training institutions have added to their curriculums advanced courses for consulting psychologists and social workers, courses in educational work for deputy school principals and training in *"How to raise awareness of the problem of human trafficking"* among class leaders;
- Specialised study seminars have been held for professional staff working to prevent child trafficking, ill-treatment and sexual exploitation. Pilot projects have been carried out in ordinary schools and vocational training

institutes in Kherson, Donetsk, Vinnytsia and Kyiv provinces. Special study seminars were laid on since this kind of work requires a high level of professional training and a broad knowledge of psychology, teaching and the law;

- Provincial centres for consulting psychology and social work hold seminars for expert trainers, Heads of district psychological services and NGO representatives on *“Problems of cruelty to children” “A violence-free family” “Protecting pupils’ health in modern schools” “Prevention of family violence” “Violence and its aspects” “Violence: Protecting children’s psychological and moral health” “Psychological help for children from problem families” and “Fathers and children: Conflict and mutual understanding.”* Dnipropetrovsk province has staged training courses and screenings of the film *“Preventing violence;”*
- Expert Trainers work routinely to ensure that consulting psychologists, social workers, supply teachers and training and resource specialists follow the same practice in seeking to avert domestic violence and child trafficking.

1.2 Is there a National Body established? A National Plan of Action / or Policy on child trafficking or any public political statement?

Yes. Comprehensive State Programmes on Combating Trafficking in Human Beings (CSP), basically National Plans of Action (NPA), for the periods 1999-2001, 2002-2005 and 2006-2010, have sought to address the trafficking issue on an operational level.

These programmes involve the collaboration of approximately 20 Ministries, Local Governments, International Organisations, Donors and NGOs. In CSP of 2007, children are specifically targeted through the implementation of measures to prevent trafficking through education courses for children, assistance and protection services to trafficking victims through the development of a mechanism for social-psychological rehabilitation of child trafficking victims.

Parliament was urged to approve the budget for full counter trafficking measures by a Cabinet of Ministers Decree in 2007, However without the allocation of full budget funding, implementation is seriously compromised. The long-awaited approval of the CSP (Comprehensive State Programme) for the Convention on the Rights of the Child to provide the necessary boost to legislation on social protection

has been postponed for a decade, and is awaited with mounting concern by human rights and social protection activists.ⁱ

1.2a IF YES, in what ways?

The Action Plan for the Ukraine 2015 – 2017 is a joint initiative of the Council of Europe and the Ukrainian authorities. This Action Plan intends to support and renew the commitment of the Council of Europe to assist Ukraine in fulfilling its statutory and specific obligations as a Council of Europe member state: to address fundamental issues of human rights; the rule of law; necessary reform agenda in the specific areas of Council of Europe expertise and the safeguarding of democracy.

The Action Plan reflects the priorities identified by Ukraine, issues identified in the most recent findings of Council of Europe's monitoring bodies, such as the work of GRETA and the various resolutions and recommendations which have already been publicly announced. In addition, the Action Plan draws from Ukraine Action Plan 2011 – 2014 and the 2014 Co-operation with Council of Europe Immediate Measure Package documents. The Council of Europe bodies informing the Action Plan include the Committee of Ministers, the Parliamentary Assembly, the Commissioner for Human Rights of the Council of Europe, the Venice Commission, the European Committee for the Prevention of Torture (CPT), the Framework Convention on National Minorities and the Special Advisor to Council of Europe's Secretary General for Ukraine. The main beneficiaries of Council of Europe co-operation with Ukraine include state institutions and civil society.ⁱ

There has been a flurry of new legislative activity in anticipation of the third year second visit to Ukraine from GRETA - the monitoring body for the Council of Europe Convention.

The following areas of legal changes have been noted in the response to the questionnaire from GRETA to the Ukraine government in 2017:

Amendments have recently been made to Regulation No. 660 "On Approval of the Procedure for the Payment of One-Time Financial Assistance to Victims of Trafficking" of the Cabinet of Ministers of Ukraine of 25 July 2012 to increase the amount of one-time financial assistance. Starting from 1 January 2017, this assistance is equal to three times the subsistence rate for the relevant category of citizens:

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- children under 6 – UAH 4,278;
 - children aged 6-18 – UAH 5,331;
 - working person – UAH 5,052;
 - incapacitated persons – UAH 3,936.

Joint Order No. 4/5 of the Ministry of Social Affairs and the Ministry of Internal Affairs “On Approval of the Regulations on the Collection and Monitoring of Statistical Data on Victims of Trafficking” was approved on 11 January 2016.

Changes have been made to the form of the trafficking victim status application and the non-disclosure form regarding information about a trafficking victim in order to strengthen the confidentiality of information about victims and to receive consent or refusal to cooperate with law enforcement agencies (Order No. 366 of the Ministry of Social Policy of 25 March 2016).

The draft Law of Ukraine “On Amending Certain Legislative Acts of Ukraine to Strengthen Combatting Trafficking in Human Beings and Protection of Trafficking Victims” was developed and registered under No. 6125 in the Verkhovna Rada of Ukraine on 23 February 2017.

The draft Law of Ukraine “On Amending Certain Legislative Acts of Ukraine on the Business Activity of Mediating Foreign Employment”, which is aimed at increasing the accountability of companies that provide intermediary services in foreign employment to prevent human trafficking, was developed and registered under No. 6275 in the Verkhovna Rada Ukraine on 31 March 2017.

A draft law amending Article 149 of the Criminal Code of Ukraine (concerning harmonization with international standards) was developed to expand criminally punishable types of exploitation by including forced abortion, forced marriage, **forced involvement in begging**, etc. (registered under No. 6243 in the Verkhovna Rada of Ukraine on 27 March 2017).

Furthermore: the Ministry of Internal Affairs of Ukraine issued an order declaring 2017 the year of combatting THB. Pursuant to this order, the National Police drafted the Plan of Additional Measures to strengthen combatting trafficking crimes in 2017.

The Interdepartmental Council for Family, Gender Equality, Demographic Growth, Prevention of Domestic Violence and Combatting Trafficking in Human Beings met on 29 March 2016 with the participation of the heads of central executive authorities, as well as International Organisations and NGOs.

On 24 February 2017, the Prosecutor General's Office of Ukraine hosted an interdepartmental meeting of the heads of law enforcement bodies and government agencies. The meeting, chaired by Prosecutor General Yuri Lutsenko, focused on the situation of preventing and combating human trafficking. A resolution was adopted on 24 February 2017 setting the main objectives and directions for co-ordinating the activities of central executive authorities and representatives of NGOs and IOs involved in the implementation of the state policy in this area until the end of 2017.

1.3 Is the issue of Child Trafficking addressed in the Government's Report to the committee on the Rights of the Child?

Yes, it is. However the 2010 report from UNICEF noted that laws on children's rights were essentially declarative, insufficiently mobilised in effectively defending and developing strong children's rights and protection by the State. It has been widely acknowledged that in the last few years the general security situation throughout Ukraine regarding the country's legal instruments to deliver high end International and European legal protection of children's rights has been put on hold, in preparation for inclusion in the European Union.ⁱ This will undoubtedly affect the ability of Ukraine to address more comprehensively the multiple challenges it faces with long standing contravention on children's rights. Its Roma communities and extensive communities of institutionalised children (one of its historic legacies), are somewhat resistant to safer systems of inclusion. Ukraine appears slow to deconstruct this default stream for dealing with poverty, violence or abuse within 'at risk' households, who can 'offload' children into such institutions for their upkeep. The most recent initiative has been developed with funding secured from the Lumos foundation –providing orphanages in Zhytomyr region with technical, expert and methodological assistance in implementing the pilot project for ending the harm of institutionalisation on children.

Currently 1.5% of the child population of Ukraine are in institutions. The new action plan for 2017-2026 is looking to diminish the risk posed by institutionalisation to 0.5% of the child population by 2026, with family sized modules of up to 15 children being the favoured model for state provision of social protection outside of biologically framed households.ⁱ

2. DATA COLLECTION

2.1 Is there a Central National Registration system in the country for victims of trafficking?

Yes, since 2012, a national registry of human-trafficking-related crimes has been maintained by the Ministry of Internal Affairs (police)ⁱ.

2.2 If YES, where is it located and Is the data properly disaggregated by gender and ethnicity ?

Ministry of Internal Affairs (police). Regrettably, Ukraine has neither data about child victims of sexual exploitation and human trafficking, nor a breakdown by gender, age, or location of the children. The Ombudsman has called for this data to be collected as a matter of urgency.

2.3 What FORMS OF EXPOITATION are identified?

According to IOM statistics, detection and prosecution of human trafficking for sexual exploitation decreased from 34% of the total figures for trafficking in 2010 to 6% in 2014.ⁱ Human trafficking for labour exploitation saw a significant increase in detection and prosecution from 56% in 2010 to 91% by 2014.ⁱ In 2010 and 2011, the majority of the identified victims were women (64% in 2010 and 58% in 2011), but in 2012–2014, not surprisingly with the sector of trafficking being interdicted, the number of male victims prevailed (56% in 2012, 52% in 2012, and 58% in 2014)ⁱ. The majority of victims according to IOM are children and teenagers. The most common forms of child exploitation are pornography, prostitution, forced labour and begging. Victims are exploited inside the country or trafficked to neighbouring countries such as Russia, Turkey and Poland. However there is some disagreement around which age-set and gender are most at risk of being trafficked.

According to UNODC 2012, the vulnerability of children to trafficking for begging, petty crimes and surrogacy is increasing in Ukraine. Ukrainian children fall victim to human traffickers mostly because of unemployment, poverty, educational deprivation, dissoluteness and violence readily available on mass media, formality and lack of coordination among specialised services.

Somewhat historic data from 2006 for Ukraine, shows females (95%) were identified as victims of human trafficking. This trend was stable over a period of years and

reflected the concerns of the State that it was women who were more at risk of being trafficked. From 2010, with a change in global attention to the challenge of men being immersed in trafficking networks not only as traffickers but also as victims, a change in this trend of profound gendered asymmetry occurred, with a dramatic increase in the number of male victims of trafficking identified.ⁱ

In 2012, more men (56%) were recorded as victims of human trafficking. This figure compares with 47% men in 2011. This data shows a growing trend towards identification of exploitation in forced labour (construction, manufacturing and production), which in the current gendered demographic mainly affects men.ⁱ

New trends of trafficking abuse are emerging as the competent authorities in Ukraine develop better ways to identify victims of labour exploitation. There is clearly an expansion of the 'at risk groups' being identified expanding from that of young women and female children (15-24) to women and men of all ages. Data shows persistence in the trafficking of children, even though some reports from Ukraine show a reduction.

Amongst some of the provisional responses to the GRETA assessment of 2017, was the following statement from the government that 'Trafficking in children is one of the most latent crimes which is also difficult to detect and investigate. Law enforcement authorities have identified about 3,000 facts of human trafficking since the beginning of 2005. 300 children (10% of the total number investigated) have been recognised as victims in criminal proceedings.'ⁱ

The government claims that the number of child victims is falling year on year. Yet, 93% of the cases of children aged 15-18 are sold into sexual exploitation to the Russian Federation as the destination country. A quote from IOM states: 'in other cases parents from disadvantaged families, most often previously convicted and leading an immoral lifestyle (sic) have tried to sell their new born babies.'ⁱ

There are the beginnings of identification of foreign nationals caught in trafficking as well as a longer established intra-regional local exploitation of Ukrainian females. Multiple discrepancies in perception of which segment of trafficking is causing the most disruption into Ukraine's social economy, and which one is claiming the most policing time, is a matter which may be elucidated in the GRETA report of 2018.

What is clear from the report is that *'Criminals are increasingly using the Internet to recruit potential victims of trafficking. In particular, they create specialised websites*

and groups in social networks, establish direct contact on dating sites, place job advertisements, and so on.

In order to prevent identification, criminals communicate among themselves and with victims using VoIP apps (WhatsApp, Viber, Skype, Telegram, Line, Imo, Icq, Facebook and Google) for smartphones with Android, BlackBerry OS, iOS, Symbian, Windows Phone and Bada platforms and computers with Windows, OS X and Linux operating systemsⁱ

2.4 WHO is responsible for collecting this data?

The Ukrainian Ministry of Social Policy - National Coordinator for anti-trafficking work - prepares a report of human trafficking every year.ⁱ It is also this ministry which is the lead agency focused on the IDP crisis and has been overwhelmed by the registration process. As a result, the focus on trafficking victims has dwindled. Since the parliamentary revolution of 2014, there has been substantial personnel changes within the bureaucracy. Consequently, there is a new head of the Department on Family, Gender Issues, and Counter-Trafficking at the Ministry of Social Policy.ⁱ As with any process of substantial organisational change, there has been a great deal of disruption in some of the central tasks which are required for strong data management to build sustainable and enhanced models of collection.

2.5 What are the challenges which they/ or other stakeholders identify in gathering CLEAN and reliable data?

In 2013 a few months before the 2014 revolution, the IOM reported that Ukraine was one of the countries most prone to human trafficking abuse, ranking 87th out of 140 countries in terms of risk in 2011. One of the challenges in compiling clean, reliable and disaggregated data for the Ukraine is the diversion of funding currently from the task of consolidating the 'back office' data function in governance, and the co-ordination of the efforts of the various NGOs working on trafficking issues in Ukraine. This is due to the challenges being currently faced in the central governance structure as well as separatist action in the Crimea with substantial support from within Russia. This area of weakness the Ukrainian Government has urged GRETA audit team to work with it to address. The government has asked GRETA to seek access into separatist held areas to explore further the allegations emerging around The OSCE Special Monitoring Mission in Ukraine's report which attested that children as young as 15 continued to take part in active combat as part of combined Russian-separatist forces.

According to this report children aged 15 to 17 are actively recruited to participate in militarised youth groups that teach children to carry and use weapons. Children who excel in their training are encouraged to form their own 'reconnaissance and sabotage groups' and engage in active conflict. A Ukrainian government official testified that one children's battalion associated with this training programme, 'St. George the Victor Battalion,' is thought to have children as young as 12 years in its unit.

The recruitment of children by militant groups is taking place on territory not under the control of Ukraine's government and prosecuted in areas where the government is unable to enforce national prohibitions against using children in armed conflict. Further answers to GRETA's preliminary surveys are to be found in the Reply from Ukraine to the Questionnaire noted below.ⁱ

The war in Donbas and Crimea regions does not help in the collection of data and research. GRETA considers that the Ukrainian authorities should conduct and support research on THB-related issues as an important source of information for the evaluation of current programmes and for planning future policy measures.

Areas where more research is needed in order to shed light on the extent of and emerging trends of human trafficking include: trafficking for labour exploitation; of foreign nationals to Ukraine; for the purpose of removal of organs; for labour into Institutions (such as orphanages where foreign donations can be attracted), adoption and surrogacy; and sexual exploitation within Ukraine.ⁱ The availability of such research will assist policymakers.

The assessment from GRETA due early in 2018 is expected to shine a light on Ukraine's ability to collect data, to track appropriately the multiple challenges it faces, to re-establish coherent governance over its territory and manage trafficking in the country.

3. PROFILE OF COUNTRY AND ROUTES OF TRAFFICKING

3.1. Is this mainly a COUNTRY OF ORIGIN of victims of trafficking?

Yes. Currently, it is a country of origin, but to a lesser extent it is also a country of destination and transit.

3.2 If YES, List the countries TO WHICH victims are reportedly trafficked?

The International Organization for Migration (IOM) Mission in Ukraine reported:

2010	1,085 identified victims of human trafficking
2011	814 victims
2012,	945 victims
2013	929 victims
2014	903 victims

[4]

Citizens of Ukraine are usually trafficked to the Russian Federation (46%), Poland (13%), Turkey (11%), and other European Union countries (14%).ⁱ More recently replying to the instigating questionnaire from GRETA, the Ukrainian government informed the enquiry that the main countries of destination included all the above-named plus Israel, Greece, Ukraine itself and the United Arab Emirates.

It revealed that a recent Risk Assessment had shown the following structural characteristics of the vulnerable populations:

- Single women, single mothers, divorced persons
- Youth, street children, orphaned children, persons from disadvantaged families
- Rural population
- Internally displaced persons
- Foreign citizens who are migrant workers
- Victims of violence, including sexual violence
- Poor and disadvantaged persons
- Persons with mental health problems

With the Population categories most vulnerable to trafficking:

- Women aged 18-26 especially single – (vulnerable to sexual trafficking)
- Men aged 25-60, especially married (vulnerable to labour trafficking)
- Children aged 13-18 (especially girls with only one non-biological parent)ⁱ

3.3 Is this mainly a COUNTRY OF DESTINATION for victims?

Ukraine is a source, transit and destination country. It is also a country where sex tourism takes place from purchasers coming to the Ukraine to access those in sexual servitude.

3.4 *If YES, List the countries FROM WHICH victims are reportedly trafficked?*

From 2003 to June 2015, victims of human trafficking within Ukraine came from Moldova (65%), Central Asian countries (20%), the Russian Federation (5%), Vietnam (5%), with other countries making up the final (5%).ⁱ

A small number of foreign nationals, including those from Moldova, Russia, Vietnam, Uzbekistan, Pakistan, Cameroon, and Azerbaijan, are subjected to forced labor in Ukraine in a variety of sectors including construction, agriculture, manufacturing, domestic work, the lumber industry, nursing, and street begging.ⁱ Experts report that the number of foreign victims in Ukraine appear to have fallen dramatically since the beginning of hostilities in 2014.

3.5. *Is this mainly a COUNTRY OF TRANSIT for victims of trafficking?*

The country can be deployed as a transit point for victims of trafficking, particularly from neighbouring Russian Federation. Ukraine has the second largest migration corridor in the world with the Russian Federation. It also has extensive sea borders, which provide more destinations for human trafficking routes and mixed migration.ⁱ

3.6 *If YES, List the countries FROM WHICH victims in TRANSIT are reportedly trafficked?*

Moldova, Russia, Kyrgyzstan and Uzbekistan.

3.7 *If YES, List the countries TO WHICH victims in TRANSIT are reportedly trafficked?*

The main final destinations have been identified as Turkey and the UAE. The US TIP report 2017 calls for greater protection of those who are using the ‘smuggling corridor’ coming through Ukraine seeking entry into the rest of Europe. A comprehensive training in identification, and refreshed resources for protection were called for by US TIP 2017, as finally prosecutions for Human Trafficking started to rise again – but still only a paltry 27 prosecutions were undertaken in 2016 which belies US TIP report perception of the magnitude of the problem.

3.8. *Is there INTERNAL/Domestic CHILD TRAFFICKING reported to take place in the country?*

Yes. The current conflict in Ukraine has displaced nearly two million people who are most vulnerable to exploitation, because safety networks are disrupted and

household economies dismantled. In areas controlled by the Russian-led separatists, the situation has become particularly challenging. Employment options are limited and the current separatist “authorities” have restricted international humanitarian aid, that would otherwise assist in social protection, meeting immediate survival, housing and nourishment needs for the displaced civil society.

There have been reports of kidnapping of women and girls from conflict-affected areas for the purposes of sex and labour trafficking. In 2015, there were several reports of Ukrainian internally displaced persons subjected to trafficking, as well as Ukrainians subjected to forced labour on territory not under the control of central government.

There are an estimated 1.4 million people displaced since the conflict began of whom 170,000 are children. Amongst these are 10,000 Roma people who became Internally Displaced Persons (IDPs) in the first eighteen months of the conflict. Concerns are raised that Roma people have not been given the same protection in IDP relocation as other Ukrainians which places them at enhanced risk of trafficking.ⁱ

In the Bureau of International Labour Affairs from the US, exploring the minimal advancement efforts of Ukraine against the scourge of child labour, the following ‘labour’ exploitation of children was noted:

”A clear challenge for those who have been institutionalised from young in State run and NGO run orphanages – many of whom are not in fact ‘orphans’. These institutions become a place where children are ‘targeted’ for exploitation in pornography whilst in the institutions, and sex trafficking, and other forms of abuse when they ‘graduate.’”

Disability Rights International 2016 report was critical of the way in which institutionalizing the response to household poverty, disability and social stigmas, is not only prohibited by international law, but fundamentally puts at risk those who are caught in this form of long term-segregation, institutionalization, disempowerment and systemic risk creation.ⁱ

No Way Home is the product of a three year investigation by Disability Rights International on the ‘egregious human rights violations’ perpetrated against nearly 100,000 children with and without disabilities, who are ‘left to grow up segregated from society in orphanages, psychiatric facilities, residential boarding schools and other institutions.’ The report continues in its series of challenges made to both the State authorities and the international community to promote the enforcement of

the rights of children who are institutionalised, and to outline steps to promote full community integration as the final outcome of their intervention, rather than the effective segregation of peoples owing to both disability and serious economic marginalization. Recently JK Rowling has added her voice and money generated by the Harry Potter series, to counterbalance the 'learned helplessness' created by institutional placement, and the serious abuses to which 'children detained in institutions are at risk: sexual abuse, trafficking for sex, pornography, or sale of bodily organs.'ⁱ

UNICEF has a figure of 82,000 living in Ukraine's institutions, whilst other NGOs and Ukrainian advocacy groups quote figures in the 200,000 bracket. To add to the confusion, Ukraine's government cites a range of numbers, whilst the GRETA report of 2015 considered data collection to be adequate. ⁱ

During the reporting period up to 2016, a variety of sources, including the OSCE Special Monitoring Mission in Ukraine, documented that children as young as 15 years continued to take part in active combat as part of combined Russian-separatist forces. As mentioned on previously, there were reports that children aged 15 to 17 were actively being recruited to participate in militarised youth groups to carry and use weapons. Children who excel in this training were encouraged to form their own reconnaissance and sabotage groups and begin to fight.

A Ukrainian government official reported that one children's battalion associated with this training programme - *St. George the Victor Battalion* - may include children as young as 12 years old. The recruitment of children by militant groups took place on territory not under the control of the central government and in areas where the government was unable to enforce national prohibitions against the use of children in armed conflict. Russian-led separatists also continued to employ children as informants and human shields during the reporting period, which means that children are effectively caught in recruitment to military activity.

3. 9. [If YES, List MAIN POINTS \(towns/cities / regions\) reported for Internal/Domestic Trafficking?](#)

Internal trafficking has significantly increased in recent years according to IOM and Caritas Ukraine, the agency working on the issue for a number of years.ⁱ The current security instability in Ukraine is not assisting the State's fight against trafficking. A depletion of available resources and the displacement of people from rural areas into rapidly growing cities like Kiev and Odessa sees the presence of many children

caught up in sex trafficking as well as domestic labour, and criminalisation. This is not well documented.

In 2010, La Strada reported that internal trafficking incorporating child prostitution has significantly increased in recent years.ⁱ Many children and youth are trafficked internally, from rural to main cities, like Kiev and Odessa, Kharkiv and Sevastopol and the situation appears to be still deeply concerning.ⁱ With the assets of the State used to defend the Eastern region of Ukraine in its current disputed terrain with Russia, and the extraction industries of the Eastern region now all but collapsed in the uncertainties of the last three years since Pro-Russian forces declared independence in a number of cities and regions in this area, the movement of youth and the dislocation of children has increased.

However it is to Western Ukraine that the GRETA report of 2014 called attention with the 'sale of children' being called out in Zakarpattia, Lviv and Chernivtsi Oblast. GRETA urged the Ukrainian authorities to pay attention to the situation of the Roma community where NGOs reported on-going exposure to human trafficking in this discrete and 'excluded' section of the population. GRETA calls for attention by the authorities into this area of counter Trafficking work.ⁱ

3.10. Are there particular groups of children reported to be trafficked internally/Domestically? (e.g. Nationality? Ethnicity? Gender / Other groupings?)

Yes, orphan 'communities' (approximately 82,000-200,000) are particularly at risk to trafficking in state-run and independently financed orphanages. Officials of these institutions are allegedly complicit or willfully negligent in the sex and labor trafficking of children under their care. The risk of 'recruitment' itself, into these institutions, has become a perverted form of 'reverse' internal trafficking. The identification of unaccompanied foreign minors face disappearing within the inadequate safeguarding structures of the State.ⁱ

The average age of entry into prostitution is not known officially, although surveys indicate concerns, whether scientifically validated or not, that it is lowering. According to the Special Rapporteur report 2007 on the sale of children, child prostitution, and child pornography, "this (challenge) may be connected with the rapid expansion of communication technologies and the fact that young people

receive mixed messages as the infiltration of Western consumer culture becomes stronger.”ⁱ This is now combined with recruitment on social media and Internet to add to the also ubiquitous direct face-to-face grooming from ‘trusted’ persons, or through recruitment agencies.

One of the areas which is supported by reports from GRETA, UNICEF, La Strada and CARITAS, is that the data which has been accrued on this troubling sector of exploitation is inadequate. A great deal more research needs to be applied in revealing the extent, demography, and patterns of recruitment in the trafficking and exploitation of children in Ukraine.

In recent years, the problem of prostitution of boys has significantly raised its profile. While the number of boys providing sexual services in exchange for money was a rare phenomenon in prosecution and protection cases in 2002, it has started to rise steadily in the awareness of the community with several prominent cases reported by the media in the last year.ⁱ GRETA has called on the government to pay attention to the recruitment of boys into criminality, begging, sexual services, military service or exploited labour. It has generated a number of different trainings programmes for law enforcement, education and social protection agencies to address.

Russian-backed militants have issued decrees calling for the conscription of minors as these continue to use children regularly as soldiers, informants, and human shields.

The OSCE Special Monitoring Mission in Ukraine reported children as young as 15 taking part in active combat as part of combined Russian-separatist forces. The recruitment of children by militant groups takes place on territory not under the control of the government and in areas where the government is unable to enforce national prohibitions against the use of children in armed conflict.ⁱ

4. DATA AVAILABLE – STATISTICS

4.1 Are there official statistics recording the number of CHILDREN that have been trafficked TO or WITHIN the county? (if this is available for 2012 – 2015 or before?).

According to International Organisation for Migration (IOM) statistics, there are 605 child victims for the period 2000 - 2014. That is 5.8% of all victims who have been helped (adults and children). IOM confirms that graduates of vocational – technical schools make up 46.4% of all victims.ⁱ

A sociological survey commissioned by IOM indicated that 40% of vulnerable children aged 13-17 years would accept a risky proposal that could lead to human trafficking. The survey revealed further that children in detention, students of vocational schools and street children are the least informed about the risks of human traffickingⁱ It was found that those in institutions and child-care facilities had been well informed, however it is not clear how well this ‘information’ is protecting these children from ongoing risk of abuse.

YEAR	NOS OF CHILDREN	MALE	FEMALE	NATIONALITY	ETHNICITY
2010	38			x	x
2011				x	x
2012	16	39	39	x	x
2013	1	4	61	x	x
2014	2	35	36	x	x

4.2 How are child victims of trafficking IDENTIFIED in the country?

The accepted definition of ‘Child’ is - any natural person under the age of eighteen yearsⁱ

4.3 Who are the leads ?

According to the National Mechanism for Interaction of Agents for Combatting Trafficking in Human Beings (the NMI), there are a number of different agencies involved in this process.

The Ministry of Social Policy is the National co-ordinating body for combatting Trafficking in Human Beings.

The Ministry of Internal Affairs and the National Police are the central executive responsible for implementing measures to identify and investigate trafficking crimes

The State Migration Service is the part of the system of executive authorities which is established to implement state policy on immigration, registration of natural persons, citizenship, refugees and other categories of migrants.

Agencies for assisting victims of trafficking are responsible for providing psychological, social, educational, medical, legal, informational and other types of assistance.ⁱ

The procedure for determining the age of a child consists of three stages:

- study and analysis of available information about the child, information about the country of his/her origin
- origin of the child, i.e. if the child is separated from his/her family, is not a citizen of Ukraine and if he/she or his/her legal representative has applied to the competent authorities of Ukraine to be recognised as a refugee or a person in need of subsidiary or temporary protection;
- psychological age assessment;
- physiological age assessment.

According to Regulation No. 832 of the Cabinet of Ministers of Ukraine of 16 November 2016 “On the special aspects of the social protection of children separated from their families who are not citizens of Ukraine”, a territorial body of the State Migration Service refers a child separated from his/her family, in case of reasonable doubt about his/her age, for an examination to determine his/her age with the involvement of an interpreter and with the consent of the child and his/her legal representative, in the manner prescribed by the Ministry of Public Health, the Ministry of Education and Science and the Ministry of Social Policy. The grounds for such an examination are explained to the child separated from

his/her family. The determination of the age of a child is regulated by Regulation No. 866 of the Cabinet of Ministers of Ukraine of 24 September 2008.ⁱ

4.4 What are the difficulties in identification?

These are not discussed, but the ‘latency’ of child trafficking, and the challenges across the state sector to release the resources necessary to counteract the multiple challenges of child trafficking speak volumes in the absence of documentation. It is significant that despite significant numbers of migrants seeking to transit through Ukraine for asylum in Europe, there have been no cases of trafficking identified.ⁱ

5. CAUSES OF CHILD TRAFFICKING.

5.1 Are there groups of children who are more frequently reported to be affected by trafficking TO THE COUNTRY? (nationality – ethnicity – other?).

Statistics are poor on the recruitment and trafficking of children from Ukraine or any region within Ukraine. Only anecdotal reflections are captured in the Government’s response to GRETA’s 2017 survey.ⁱ The situation with children trafficked in Ukraine has had insufficient resource placed into the requisite organisations. It is widely acknowledged amongst NGOs, US TIP and GRETA 2014, that current statistics provided simply do not reflect the real situation in the country.

From 2003-2010, official statistics indicate the number of child-victims at 313, and in 2010 – 33 children. However other voices suggest that in Ukraine 350 thousand children suffer from trafficking – many of these children caught in institutional care. Government responses to GRETA suggest that in Ukraine 5-10 % of all the victims of human trafficking are teenagers aged from 13 to 18. By IOM statistics the majority of children are trafficked for sexual exploitation, pornography, begging, labour exploitation and criminal activity. At the same time government data records not a single case of a child trafficked for begging – which has recently been incorporated into trafficking legislation. In the light of continuing growth of children making their way on the street, outside of educational provision, the lack of strong data in this pressing area for social protection is significant.

5.2 If YES, List the groups

The list includes:

Roma children;

Children exposed to risk through institutionalisation, or through the breakdown of their protective social network;

Unaccompanied, undocumented minors caught within the migration flows coming through the Ukraine in the last five years;

Children caught up in Crimean annexation and Eastern territory under dispute.

The Ukrainian government urges GRETA to specifically pay attention to this region.

5.3 Can you name any PULL FACTORS that are reported to be furthering child trafficking to the country?

In the words of UNICEF *'Ukrainian children fall victim to human traffickers mostly because of the economic crisis, unemployment, poverty, educational gaps, dissoluteness and violence promotion by mass media, formality and lack of coordination among specialised services.'*ⁱ

5.4 Can you name any PUSH FACTORS that are reported to be furthering child trafficking to the country?

According to UNICEF, the push factors are similar to the pull factors..ⁱ

6. Assistance- Legal and Professional.

6.1 Has the Council of Europe action on Trafficking been ratified in the country?

Yes.

6.2 Is there a REFERRAL MECHANISM in the country?

Yes. It is run through the NMI mentioned above ⁱ

6.3 Are there LEGAL PROVISIONS to appoint a LEGAL GUARDIAN when a child victim of trafficking is identified in the country?

Currently a clear appointment process is lacking clarity in legislation in the international requirement for a Legal Guardian. What is being required is as follows:

Whenever the age of the victim is uncertain and there are reasons to believe that the victim is a child, he or she shall be presumed to be a child and shall be accorded special protection measures pending verification of his/her age.

4. As soon as an unaccompanied child is identified as a victim, each Party shall:

a provide for representation of the child by a legal guardian, organisation or authority which shall act in the best interests of that child;

b take the necessary steps to establish his/her identity and nationality;

c make every effort to locate his/her family when this is in the best interests of the child.ⁱ

6.4 If YES, is the Legal Guardian appointed immediately?

This is an area where there is practice being further developed and we await the report of GRETA 2018.

6.4.1. In terms of practice are there short-comings?

Yes, as there is a high reliance on institutions and boarding arrangements for children. This is an area which will be subject to a great deal of political and international support to see transformed. The LUMOS accord with regard to children's services supporting the work of the newly instituted National Deinstitutionalisation Reform office, under the Ukrainian Presidential Ombudsman for Children's rights, and the Canadian Government's Expert Deployment for Governance and Economic Growth (EDGE) Project, will provide much needed expertise and resources for developing best practice in this area and developing some of the financial streams required to resource this form of support.ⁱ

6.5 WHO is responsible for appointing the Legal Guardian?

No direct information was sourced on this issue. Currently it is the service for children's affairs in terms of who starts to respond to a child's needs once identified as a victim of trafficking.

6.6 WHAT are the responsibilities of the Legal Guardian? (e.g. to accompany the child on all occasions? / identifying the needs of the child? / ensuring that the best interests of the child are met and implemented?).

The Council of Europe's guidance is for legal guardians, or other individuals legally responsible for the child to take all appropriate legislative and administrative measures.ⁱ

6.7 WHAT other provisions are provided for the child? (e.g. social, educational, psychological, emotional, procedural, safe accommodation?) List all

According to the National Mechanism for Interaction of Agents for Combating Trafficking in Human Beings, the following measures are taken in the case of detection of a child victim of trafficking:

- The person aware of a child victim of trafficking must immediately inform, in a confidential manner, the local state administration, local self-government, National Police bodies or the Prosecutor's office.
- in cases where the victim is a child, the agents immediately inform the appropriate service for Children's affairs and a National Police body. All actions regarding such a child must follow the requirements of laws and regulations in order to protect the rights of the child.
- The service for children's affairs takes measures to protect the rights of the child and, if necessary, refers the child to a shelter for children run by a service for children's affairs or a centre for the social and psychological rehabilitation of children.
- In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.ⁱ

IOM Ukraine has been assisting victims of trafficking (VoTs) since 2000. From January 2000 to March 2017, 13,162 VoTs received comprehensive reintegration assistance, which includes legal aid, medical care, psychological counseling, financial support, vocational training, and other types of assistance based on individual needs. 632 of them were trafficked as children (under the age of 18).ⁱ

Countries of destination for child Victims of Traffickers (2000 – 2017):

Countries	2001-5	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Ukraine	6	6	21	19	16	80	37	46	14	6	10	9

2. Types of exploitation of child VoTs (2005-2017):

Type of exploitation	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Sexual ⁱ	28	46	51	43	31	41	19	7	6	1	3	3
Begging	7	3	1	4	2	58	19	43	7	4	7	6
Labor	4	1	8	9	12	15	12	8	8	3	--	2
Mixed	--	--	2	--	2	5	3	1	--	--	--	1
Pornography	--	--	--	--	--	3	3	--	--	--	--	1
Criminal activity	--	--	--	--	--	1	2	2	--	--	--	1
Other	--	--	--	--	--	--	--	--	1	--	--	1

Gender of child VoTs (2007-2017):

Gender	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Female	54	44	34	75	33	38	12	4	6	9
Male	8	12	13	48	25	23	10	4	4	3

6.8 Are there LEGAL PROVISIONS to ensure that the child receives the treatment best suited to its needs? List all.

Yes.

Under public health regulations there is a requirement to ensure provision of medication for children with phenylketonuria, immunodeficiency, cystic fibrosis, cerebral palsy, Gaucher disease, hemophilia, and diabetes (insulin-dependent children require treatment with imported insulin);ⁱ

In addition to general principles, the Law of Ukraine *“On Combating Trafficking in Human Beings,”* defines special principles for combatting trafficking in children:

1) respect for the rights of the child;

2) respect for the opinions of child-victims of trafficking regarding measures applied to them,

given their age, health, intellectual and physical development and interests;

3) clarification of the rights and responsibilities to the child victim of trafficking in a form

understandable to the child;

4) confidentiality of personal information about the child and data to grant the child the status of a trafficking victim.

With the adoption of anti-trafficking legislation in 2011 and 2012, Ukraine has established a state-support system for trafficking survivors, who currently receive assistance mainly through IOM, with international donor funding.ⁱ There are a number of state-run institutions and ‘boarding houses’ which are also deployed. This is an area to which GRETA’s report in 2018 will undoubtedly pay attention.

6.9 Are there OTHER PROVISIONS to ensure that the child receives the treated best suited to its needs and circumstances? (*response combined with response to 6.10*)

6.10 Are there LEGAL PROVISIONS to guarantee that child victims of trafficking are being cared for adequately by TRAINED PROFESSIONALS?

In response to questions 6.9 and 6.10, the following holds:

Training for all professionals has been clearly demarcated as an area for the 2017-2010 Action Plan, and was announced as part of the previous 2014 – 2016 plan. However the challenges regarding security in Ukraine may well have diverted critical resources away from its comprehensive delivery.

6:11 Is there clear and adequate provision of trained interpreters available for the Child at all points of interaction with the State?

6:12 Is information available to them at point of entry to the risks of being trafficked as an unaccompanied or accompanied minor – in the languages of the key identified groups at risk (question to Immigration / border Police / Stake holding NGOs)

Responses to both 6.11 and 6.12 are combined as follows: This is being taken forward as an area of concern. Information in appropriate languages is available at least in the ‘declarative legislation’ to which GRETA drew attention. The failure to identify any child victim at ports of entry does beg the question as to whether current adequate training is in place.

There have been a number of initiatives around aircraft and travel companies to raise the expertise of a wider cohort of professionals and business personnel to the challenges which are facing Ukraine in under-detected trafficking of either Ukraine or foreign children across and within its borders.

6.13 Are there OTHER PROVISIONS to guarantee that child victims of trafficking are being cared for by adequately trained professionals? (e.g. social, educational, procedural, safe accommodation?)

6.14 Are there PROFESSIONALS TRAINED to be aware of a) the special needs of the child? b) the RIGHTS of the child? c) gender / ethnic issues?

6.15 Have measures been taken to ensure appropriate assistance for THE FAMILY of a child victim of trafficking? (e.g. the right to receive information about possibilities of support, protection, legal advice, legal aid, outcome of action taken on behalf of the child?)

6:16 Where are the pinch points being experienced in all of these processes?

*** No information was available to the researchers in response to Qs 6.13, 6.14, 6.15 and 6.16 above.**

7. Provision- Protection of the Child.

7.1 Are there LEGAL PROVISIONS in the country that automatically grant TEMPORARY ‘right to remain’ if the child is a foreign national?

The National System of Protection of the rights of asylum-seeking and refugee children remains seriously underdeveloped. In particular, assigning a UN-required legal guardian for unaccompanied minors remains unresolved. Without it, access to social services for these children is restricted, which is contrary to the CRC principle of non-discrimination and protection of all children without exception.ⁱ

7:2 What form does this take?

The provision of protection is seriously underdeveloped and requires urgent attention by the Ukrainian authorities.

7.2 If YES, is the child entitled to stay in the country on a valid legal basis? (is there a time limit?)

Insufficient details are available to document what is happening – it appears that of the handful of cases of International child trafficking victims in 2015 were managed in an *ad hoc* manner. This problem is likely to be addressed in the 2018 GRETA report. It has been addressed to a certain extent in the designation of a specific ministry to look after Child trafficking in 2016.

7.3 What happens when the child turns 18 YEARS of age?

There are insufficient details as to what is actually happening. The presumption is that they will immediately be treated as adults, and any particular protections afforded to them as children will be withdrawn.

7.4 Is the CONDITION OF STAY in the country linked in any way to a child's willingness to testify in criminal proceedings?

There are insufficient details available to answer this question.

7.5 Are RESIDENT PERMITS durable until a 'sustainable solution' for the child has been found?

There are some concerns that children and adults are being returned to countries of source once discovered if they are non-Ukrainian nationals – the data on this is extremely difficult to ascertain. We await the new initiative of a dedicated Minister from Youth and Sport to address the issues pertaining to children.

7.6 What is the process of identifying those who are on the transition of Puberty /Adulthood – over 18?

UNICEF voices concerns about this and campaigns for presumption of minority before identification procedures are undertaken. There have been concerns of minors being placed in adult facilities because of a refusal to presume age.

UNICEF sees this as an area of concern – it features as part of its plan for reform in Ukraine in the next 5 years – *detailed below*.

7.6. How do the other LEGAL PROVISIONS of permanent or temporary permits for residence in the country work?

Not clarified for the purpose of this report.

7.7. Can Asylum claims be made at the same time as sorting out Safeguarding or a claim on Trafficking?

Not clarified for the purpose of this report.

7.8. What are the protections available for someone putting forward an Asylum?

Not clarified for the purposes of this report.

The Council of Europe Convention on action against Trafficking in Human Beings was ratified by the Ukraine in 2010 and came into force in 2011.

GRETA has just undertaken a second round of visits and its full report is awaited with interest in 2018.

8. PERMANENT / TEMPORARY RESIDENCY – DATA

8.1. Is there data for children who have RECEIVED temporary or permanent permits for residency in the country? If YES, please fill in the chart:

There is no data on residence permits, as non-national children were returned to their country of origin.ⁱ

8.2 Are there LEGAL PROVISIONS for THIRD COUNTRY SETTLEMENT of a child victim? (in cases where the safe return of a child to his/her own country of origin and the integration in the country of destination are not possible, or where these solutions not be in the best interests of the child)

Again there is no data on residence permits for third country settlement, for the same reason as above 8.1ⁱ

9. REPATRIATION – DATA.

9.1 How many child victims of trafficking have been REPATRIATED TO THEIR COUNTRY of origin? (is there official data recorded?) Fill in the chart as appropriate:

The government reported it assisted in the repatriation of 15 citizens in 2016 to Ukraine who had been subjected to trafficking abroad: eight from Kuwait; two each from Lebanon, Cyprus, and Jordan; and one each from Malaysia and Poland.ⁱ

9:2 Is there further comment from NGOs about what is occurring with regard to protection and repatriations. If so who are the lead organisations in voicing this concern?

IOM is the lead organisation.

9.2 Are there LEGAL PROVISIONS to guarantee that a RISK ASSESSMENT is made prior to repatriation in order to establish whether or not this is safe?

There is no publicly available information as to how this process is undertaken.

9.3 Are there OTHER PROVISIONS (social, procedural, educational, psychological, safety) to guarantee that a RISK ASSESSMENT is made prior to repatriation in order to establish whether or not this is safe?

It is unclear as to what provision is in place for this form of assessment. We expect to see this addressed in the future by GRETA as the legislative capacity of the country develops to respond to its trafficking challenges.

9.4 *If YES, WHO is responsible for the risk assessment in the country of destination?*

Not known how or whether this procedure takes place.

9.5 Are there LEGAL PROCEDURES in place to ensure repatriation is in the best interests of the child?

The United Nations High Commissioner for Refugees states that voluntary repatriation can only be possible in the case of a diversified assessment of the situation in the country of origin and of the family, as well as the guarantee of the

child's safety. There is a requirement also to provide programmes of adaptation and/or integration for unaccompanied minors, which in practice should include language courses, access to education (including distant learning), vocational studies, and professional skills-training.ⁱ Whether this is being undertaken or not is open to conjecture, as it is unreported. The view of the NGO personnel spoken to for this report, assert that returning failed asylum-seekers with a negative decision is the priority for much of the work currently undertaken by IOM.

9.6a Are there OTHER PROCEDURES (social, procedural, educational, psychological, safety) in place to ensure that repatriation is in the best interests of the child?

Information unavailable at time of this research

9.6b What is the Criteria being used?

Information unavailable at time of this research.

9.7 Are there LEGAL PROVISIONS to ensure that repatriated children are received in the country of origin by an APPOINTED responsible member of the social services of the country of origin and/or the child's parents or legal guardian?

Information unavailable at time of this research.

10. VICTIM ASSISTANCE.

10.1 What Institution or Organisation is responsible for RECEIVING children that are being repatriated from the country of destination to the country of origin?

IOM is the lead organisation undertaking the return of third country nationals under 'voluntary' repatriation. There is no other information on what is being undertaken in terms of any preparation of third country reception.

There is little or no evidence of needs assessment or the protection of rights and welfare for those being returned.

The requirement of legal guardianship does not appear to be securely in place.

There is significant fragility around the control and management of returns procedures, apart from the steadily professional work of IOM in this regard.

11. GOVERNMENT POLICIES and ACTION PLAN for PREVENTION.

11.1 Has the Government adopted a NATIONAL ACTION PLAN on Trafficking in Human beings?

Yes.

The Action Plan for Ukraine 2015 – 2017 is a joint initiative of the Council of Europe and Ukrainian authorities. The initiative renews the commitment of the Council of Europe to assist Ukraine in its necessary reform agenda in the areas of expertise of the Council of Europe – human rights, the rule of law and democracy. The Action Plan reflects the priorities of the country, as well as issues identified in the most recent findings of Council of Europe’s monitoring bodies, resolutions and recommendations with respect to Ukraine.

In addition, the Action Plan draws from both the Ukraine Action Plan 2011–2014 and the 2014 Co-operation with Council of Europe Immediate Measure Package documents. Council of Europe bodies informing the Action Plan include the Committee of Ministers, the Parliamentary Assembly, the Commissioner for Human Rights of the Council of Europe, the Venice Commission, the European Committee for the Prevention of Torture (CPT), the Framework Convention on National Minorities and the Special Advisor to Council of Europe's Secretary General for Ukraine. Main beneficiaries of Council of Europe co-operation with Ukraine include state institutions, civil society and the public at large.ⁱ

11.2 Does the National Action Plan include SPECIAL PROVISION ON CHILDREN?

Yes.

In 2004, the new Civil Code of Ukraine and Family Code of Ukraine entered into force. These are Ukraine’s framework laws, particularly regarding legal relations with children. The new codes take due account of important conclusions and recommendations made by the UN Committee on the Rights of the Child.

These include:

- enhance co-operation between the Council of Europe and Ukraine in the area of human rights protection;

-
- enhance the capacity of national institutions to promote and protect children's rights;
 - develop child-friendly services and systems;
 - increase awareness of violence, and in particular sexual violence.

11.3 Are there other NATIONAL ACTION PLANS in force that are relevant for the protection of Child Rights? (e.g. Action Plans on child labour / street children / commercial sexual exploitation? Other?).

The Action Plan for the Implementation of the European Social Charter (revised) for 2007-2010 was approved with Decree №237-p of the Cabinet of Ministers of April 26, 2007. The Action Plan supported the following actions:

- to conduct an investigation into the use of child labour;
- provide training for labour inspectors, job safety inspectors, child welfare supervisors, juvenile police officers, and child labour officers;
- launch an awareness campaign targeting children and youth to prevent the spread of socially dangerous diseases and promote a healthy lifestyle;
- take measures to provide homes, education, and post-graduation employment assistance to orphans and children without parental care.ⁱ

The most recent 2017–2020 plan saw the President on 24 February 2016, the Cabinet of Ministers of Ukraine issued Regulation No. 111 approving the State Social Program to Combat Trafficking in Human Beings for the Period until 2020.

The Programme's objectives are as follows:

- prevention of trafficking in human beings
- increased efficiency of identification of traffickers and their facilitators, as well as the protection of the rights of trafficking victims, especially children, and provision of assistance to them
- increased efficiency of interaction between executive authorities, international organizations, NGOs and other legal entities that perform different functions in combating trafficking in human beings;
- raising public awareness about ways to avoid the risks of trafficking and opportunities for receiving assistance in order to develop the skills of safe conduct among the population;

-
- improving the professional competence of the employees of public authorities, including the law enforcement and judiciary systems;
 - reducing the manifestations of prejudice against trafficking victims and building trust in the executive agencies active in combating trafficking in human beings;
 - enhancing public trust in the law enforcement and judicial systems;
 - introducing an effective mechanism for trafficking victim referral by the National Police to the structural units responsible for providing assistance;
 - providing adequate protection assistance to trafficking victims taking into account the needs of certain groups of such persons;
 - implementing activities to minimise the level of trafficking in human beings.
 - wide-ranging information campaigns among the population, including internally displaced persons, to prevent the risks of trafficking and explaining opportunities for receiving assistance;
 - preparing an annual report on the implementation of activities to combat trafficking in human beings;
 - training for first-line employees in government institutions who are in contact with trafficking victims
 - focusing on victim identification and interaction between agents for combating trafficking in human beings.

11.4 WHICH of the following NATIONAL BODIES are in the country?

There is an Anti Trafficking co-ordination body run through the National Investigation Model NIM

11.5 Is there cooperation between Government agencies and NGOs and in what form does this manifest itself?

Yes, there is cooperation taking place.

11.6. What are the various other bodies that bring together Stakeholders in this area, for you nationally?

An extremely important role in shaping and implementing the state policy to combat human trafficking is played by International organisations and NGOs, whose representatives are in attendance at *'all working groups and interdepartmental coordination councils to combat trafficking in human beings'* (according to the the Ukrainian Government's reply to the survey sent out through GRETA). These include:

IOM Mission in Ukraine,

OSCE Project Coordinator in Ukraine,

The International Organization "Campaign A21"

Ukrainian Helsinki Human Rights Union,

All-Ukrainian NGO Coalition for Combatting Trafficking in Human Beings and other NGOs that are not members of the NGO coalition.ⁱ

11.7. What is the place of Faith-Based Organisations in these forums?

Low profile at the moment.

11.8. What particular areas of concern are being taken forward by NGOs?

Awareness-raising campaigns are run by the government, international organisations and NGOs, singularly and in partnership, such as the Ministry of Education, IOM, La Strada, Women's Consortium of Ukraine (WCU), Caritas, and *Help Us Help the Children*.

Activities include youth education programmes including specific programmes aimed at orphans and social assistance for victims of trafficking. Resources include the publication of manuals for school students on the prevention of trafficking, educational films aimed at children, information campaigns on national television and radio, and training modules on child trafficking for teachers and journalists.

IOM has also developed a network of organisations working on trafficking, and publishes information on its activities through its counter-trafficking newsletter. For protection and reintegration activities, the main actors are IOM, La Strada-Ukraine,

ILO, OSCE, and Winrock International. IOM administers 6 shelters, 2 of which were government initiated, though they are not specifically for children.

There are other NGOs, such as Caritas, which can be described as an FBO, (Faith-Based Organisation, providing shelter and complete psychosocial counselling for fewer children.

The *Road to Life* NGO concentrates solely on reintegration strategies for orphan victims of trafficking.

It seems that there are no state-run shelters exclusively for child victims of trafficking, who it has been thought have been 'integrated' into other mainstream facilities for placing at risk children—orphans and state-run boarding schools, though there are approximately 5 designated public shelters for victims of trafficking of all ages .

It is of serious concern that some victims may be held in transit centres for young criminals. Where children are not reunited with their families, they may be sent to boarding schools where there is a risk of re-trafficking and lack of clear attention to the psycho-social challenges and legal protection required for their onward progression and re-integration into society.ⁱ

11.9. Are there some specific contributions into this area of engagement being made by the Catholic Church in your country?

Apart from Caritas, any other contributions are conducted quietly.

11.12. Are the Female Religious in your country working with any Prevention-focussed projects?

No information forthcoming at the time of the research.

12. Safeguarding and Protection

Are there particular reasons why working in this area of child protection may instigate wider issues to be addressed by the Roman Catholic church and the Religious Congregations?

Which are the lead organisations in country currently working on Safeguarding?

Are there clear protocols and documents outlining processes which can be incorporated into the annex of documents?

Are there some best practices here which are worth sharing across other countries?

Are there clear protocols in place in engaging with FBOs and what is required from them?

Answers to the above questions have not been forthcoming at the time of this research.

13. IMPLEMENTATION and MONITORING

13.1 Is there one Ministry that is leading in developing and implementing National Policy responses to Child Trafficking?

It is not clear that there is a clear designation of responsibility for actively addressing child trafficking in Ukraine, though local authorities have been charged to address the issue by Central Government.

13.2 Is there an OFFICIAL MECHANISM to monitor the implementation of national policy responses on human trafficking in the country?

Yes in part the NIM – *see above*.

14. GOVERNMENT AGREEMENTS

14.1 Are there any BILATERAL AGREEMENTS in force (between Governments) on the issue of human trafficking?

Not available to the authors of this research.

14.2 Are there any MULTILATERAL AGREEMENTS in force (between Governments) on the issue of human trafficking?

Not known by the authors of this research.

15. LEGAL FRAMEWORK

15.1 Is the legal definition of a “CHILD” in line with the definition of the Convention on the Rights of the Child?

Yes. A child is a person under the age of 18 years.ⁱ Ukraine was one of the first UN member-states to ratify the Convention on the Rights of the Child on February 27, 1991.ⁱ

Ukrainian law does not use “child” but rather a “minor” which, under Article 1 of the 1993 Act *“On promotion of the social advancement and development of young people”* is every citizen under the age of 18 years. The civic majority is attained at the same age (Article 70 of the Constitution). Both definitions are in conformity with Article 1 of the Convention.ⁱ

15.2 What is the LEGAL AGE in the country for a child to take up employment?

The minimum employment age of 15 with the exception of children involved in activities officially defined as light work that cannot harm their health, morale, or education; the minimum employment age for jobs officially defined as unsafe or dangerous to health shall be 18 years; limitation of working hours for minors.ⁱ

15.3 What is the LEGAL AGE for completion of compulsory education?

The Law on General Secondary Education of 1999 (formally adopted in the year 2000) provides for significant changes in the structure, duration and content of basic and senior secondary education, to be introduced from 2001 over a period of more than ten years. The Law stipulates that elementary education will last four years and the admission age will be 6. Basic (lower secondary) education will last five years, completing the general secondary education programmeⁱ.

15.4 What is the MINIMUM AGE in the country for entry into Military Service?

In accordance with the Constitutionⁱ, the Law “on universal conscription and military service” adopted in 1999 states that all citizens who reach 18 years of age can be called up for compulsory military service. The minimum age for participation in hostilities is also set at 18 years. Ukrainian armed forces are composed of a mix of conscripts and professional soldiers. Professional enlistment in the armed forces is available to persons aged 17 to 21.ⁱ

15.5 What is the age of SEXUAL CONSENT?

The minimum age of sexual consent is not formally set by law. The Criminal Code penalises sexual intercourse with “a sexually immature person”ⁱ. None of the legislative provisions, however, defines when sexual maturity is reached. Article 156 of the Criminal Code punishing the “debauchery of minors” is more precise: it defines a minor as a person under 16 years of age. Hence, we should probably conclude that sexual majority is attained at the age of 16 years.

15.6 What is the MINIMUM AGE in the country for MARRIAGE?

The age of majority may be reduced under the Marriage and Family Code 31, whereby girls of 17 may get married. Marriage can be permitted at an earlier age “in exceptional circumstances.” However, these “exceptional circumstances” remain unclear.ⁱ

15.7 Is every child in the country REGISTERED at birth?

Yes.ⁱ

Countries and areas	Total registered (%)	Sex (%)		Age in months					Place of residence (%)		Region (%)		Household wealth		
		Male	Female	0-11	12-23	24-35	36-47	48-59	Urban	Rural	Highest registration	Lowest registration	Poorest	Second	Mid
Swaziland	50	50	49	41	44	49	52	61	62	47	55	42	39	42	4
Sweden	100z	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Switzerland	100z	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Syrian Arab Republic	96	96	96	89	97	97	98	99	97	95	99	87	93	95	9
Tajikistan	88	89	88	80	89	91	91	92	88	89	92	86	86	87	8
Thailand	100	100	99	99	99	100	100	100	100	99	100	98	99	99	9
The former Yugoslav Republic of Macedonia	100	100	100	99	100	100	100	100	100	100	100	99	99	100	10
Timor-Leste	55	55	56	30	52	61	64	69	50	57	91	34	50	54	5
Togo	78	78	78	72	81	80	79	78	93	71	93	68	59	71	8
Tonga	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Trinidad and Tobago	97	97	97	88	98	99	97	100	-	-	99	95	96	96	9
Tunisia	99	99	100	98	99	100	100	100	100	98	100	98	98	100	10
Turkey	94	95	93	89	95	95	98	98	95	92	99	87	89	92	9
Turkmenistan	96	95	96	87	97	99	97	99	96	95	99	94	94	96	9
Tuvalu	50	49	51	54	54	47	47	47	60	38	-	-	39	43	3
Uganda	30	30	30	25	28	31	32	33	38	29	45	11	27	26	2
Ukraine	100	100	100	99	100	100	100	100	100	100	100	100	100	100	10

15.8. Does every child require a PASSPORT / Legal document for travel to another country?

Yes. On January 1, 2004 the new Civil Code of Ukraine came into effect, where Part 3, Article 313 stipulates that “a person under the age of sixteen has the right to travel outside of Ukraine only with the consent of the parents (adoptive parents), guardians, and their escort or accompanied by the persons authorised by them”. Thus, if a child goes across the state border with one parent, the consent of the other parent is required.ⁱ

15.9 How does identification and verification of the age of the Child/adult occur?

Described above – this does not appear at present to have generated any particular advocacy movement around it – with the current crisis in the economy and political environment to contend with low-level of child or refugee advocacy currently in place.

16. LEGISLATION

16.1. Does legislation in the country criminalise human trafficking?

Yes. Article 149 in the Criminal Code of Ukraine ⁱ

16.2. Which forms of exploitation does the definition of human trafficking include? (circle relevant): Prostitution of others? Other forms of sexual exploitation? Labour exploitation? Slavery or practices of slavery? Removal of Organs? Illegal Adoption?

Exploitation of human beings in this article are considered all forms of the sexual exploitation. These include in the porn industry, forced labour or forced servicing, servitude or usages similar to servitude, forced conditions, attraction into the kabala, organs’ extraction, to experiment on a person without its consent, adoption with the purpose of gain, forced pregnancy, involving into criminal activity, using in armed conflicts. ⁱ Forced begging has been included within the Ukrainian legislative body as part of trafficking criminality.

16.3. Does the legislation apply to CROSS-BORDER trafficking?

This information has not been explicitly included in the CRIMINAL CODE OF UKRAINE.

16.4. Does the legislation apply to INTERNAL trafficking?

This information has not been explicitly included in the CRIMINAL CODE OF UKRAINE.

16.5 Does the legislation apply specifically to trafficking in CHILDREN?

Yes.

Responsibility for imprisonment, relocation, concealing, transferring or receiving a young or minor under this Article shall occur notwithstanding whether such actions were committed with use of deception, blackmail or susceptible state of the said persons, or with the use of threat to use violence, or use of official position, or by person on whom the victim was materially or other dependent.

(Article 149 as amended by Law No 3316-IV (3316-15) of 01/12/2006).

16.6 Does the legislation make reference to the RIGHTS OF THE CHILD and/or the specific BEST INTERESTS OF THE CHILD?

Ukraine has made a number of commitments to improve the wellbeing of children - particularly by signing and ratifying: The UN Convention of the Rights of the Child (CRC) in 1991ⁱ

16.7 Does the country have legislation to prevent the sexual exploitation of children?

Currently No. This is something which requires further amendment.

16.8 Does the country have legislation on child labour?

Yes. The Criminal Code of Ukraine includes begging and illegal employment of minorsⁱ.

Article 150 and 150-1 in the Criminal Code of Ukraine

Exploitation of children, who are under legally employable age, by way of profit-seeking employment, -shall be punishable by arrest for a term up to six months, or restraint of liberty for a term up to three years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three yearsⁱ.

The use by parents or persons substituting them, of a minor for begging (systematic wheedling of money, goods, other inventories from strangers) with purpose of

profit - shall be punishable by restraint of liberty for a term of three years or imprisonment for the same periodⁱ.

16.8 Does the country have legislation to regulate Child Migration?

No. At the time of this report, Ukraine has not signed or ratified the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families that provides protection for the rights of both legal and illegal migrant workers, as well as their underage children. On May 18, 2007, the Commissioner for Human Rights submitted a request to the President of Ukraine regarding accession of Ukraine to the Convention, which *would ensure protection of the rights of both Ukrainian migrant workers abroad and foreign migrant workers in Ukraine*ⁱ

16.9 Are there LEGAL PROVISIONS to guarantee that child victims are protected from the effects of giving evidence in open court? What are these?

Not evidenced in our survey.

16.10 What are the guidelines for the participation of child witnesses and victims to bring their case to court?

These are under articulated – and it does not appear to have been adequately progressed to bring into line with international best practice.

Is there provision for victimless prosecution?

Victimless prosecution does not appear to be a mode of operating currently in the Ukraine, and may well hamper the number of cases actually being brought forward to the courts, for fear of reprisals.

16.11 Are there instances which need to be verified of those who have been victims of trafficking ending up as under criminal charge?

Not that we have been notified of, but this is frequently the case in the early years of transformation in a country coming to terms with the full implications of grooming and intimidation unleashed in Trafficking.

16.12 Are there LEGAL PROVISIONS to appoint an appropriately experienced Lawyer to represent child victims?

Information unavailable to the researcher at this time.

17. LAW ENFORCEMENT

17.1 How many CHILD-TRAFFICKING CRIMES have been RECORDED (by police) are UNDER INVESTIGATION, were CONVICTED were PROSECUTED in the country?

Year	Recorded by Police	Under Investigation	Convicted	Prosecuted
2010				
2011				
2012				
2013				
2014				

This table cannot be completed in any meaningful way. According to research commissioned by IOM, over 230,000 Ukrainians became victims of human trafficking since 1991.

Ukrainian police recorded nearly 150 human trafficking crimes in the first six months of 2017, which is more than twice as many as in the same period in 2016.

Victims included 119 women, 37 men, and 12 children. Police provided help to 156 victims. The Ukrainian National Police press service said.

"In all, policemen uncovered 144 crimes (against 60 in 2016) under Ukrainian Criminal Code Article 149 (trafficking in humans or other illegal agreements regarding humans). Law enforcement has identified 69 offenders responsible for trafficking in humans." Forms of human trafficking unrelated to sexual exploitation have recently been increasingly more frequent, the National Police human trafficking crimes department reported on its Web feed. ⁱ

In October 2017, a growing crime of Ukrainian nationals transporting narcotics in Russia has been disclosed but the number of minors caught in this racket on the pretext of 'employment' which then transforms into long term criminal and labour

exploitation is not known. It is claimed that on return to the Ukraine there are no provisions in place to prevent further exploitation or redress for them through criminal proceedings.ⁱ



A picture of a campaign undertaken in Kiev in December 2014, an installation which sought to provoke questions – Called ***Invisible in Plain Sight***, it sought to raise awareness of Human Trafficking in Ukrainian society. Note the very small representation of children in the installation.

17.2 WHAT kinds of SENTENCES were imposed on those convicted of child trafficking?

There is no information available for analysis.

17.3 Are there instances that you have encountered (second or third Party) or seen reported on the Criminal Justice process having been subverted – with corruption, or simply a financial penalty and not imprisonment?

17.4 Is there training for Law Enforcement – for Criminal Justice System (Judges, Prosecutors,) widely available?

Questions 17.3 and 17.4 are combined in the following response:

This is being called for in the 2016 – 2020 Action Plan for Ukraine. It is needed as the change of personnel alluded to above as a result of the 2014 Revolution, has

resulted in some significant knowledge-loss in key positions, and front line services around the protection services and Human Trafficking. This will be doubtless be remarked on in the 2018 GRETA report.

17.5 What form do your court processes take (Jury? number of Judges?)

This information is unknown

17.6 How many children APPLIED for ASYLUM? How many were GRANTED Asylum? Which Countries (fill in table).

Year	Number Applied	Number Granted	Countries
2010			
2011			
2012			
2013			
2014			

These figures are not available.

18. TRAFFICKING STATISTICS.

18.1 Is there DATA available to show the number of CHILDREN trafficked INTERNALLY / INTO the country from abroad / OUT OF the country to other countries?

YEAR	NO.s OF CHILDREN	Domestic Trafficking	INTO THE COUNTRY	OUT OF THE COUNTRY
2010			<i>From</i>	<i>to</i>
2011			<i>From</i>	<i>to</i>
2012			<i>From</i>	<i>to</i>
2013			<i>From</i>	<i>to</i>

2014			<i>From</i>	<i>to</i>

Again these figures have not been made available to our research.

19. ASSESSMENT and RECOMMENDATIONS.

What recommendations for action are emerging from the International bodies tasked with overseeing best practice for the delivery of the Rights of the Child and other areas of Victim assistance, Victim identification, Protection, Prosecution, Referrals, Temporary/Permanent Residency, Repatriation, or Integration?

The following International Bodies are:

GRETA

GRETA notes that additional measures should be taken to raise public awareness about human trafficking and address the root causes of trafficking. The report also draws attention to the need to address emerging trends, such as the increase in trafficking for the purpose of labour exploitation, internal trafficking and trafficking of foreign nationals to Ukraine. GRETA is concerned deeply by the negative consequences of the current crisis in Ukraine on anti-trafficking activities and the growing number of internally displaced persons, including women, children and persons with disabilities, who represent a group vulnerable to human trafficking.

GRETA calls on the Ukrainian authorities to provide in law for a recovery and reflection period for victims of trafficking and to ensure that they can benefit from the right to obtain a renewable residence permit. GRETA urges the Ukrainian authorities to ensure that human trafficking offences are effectively investigated and prosecuted through developing the training and specialisation of investigators, judges and prosecutors, and making full use of the measures available for protecting victims and witnesses.ⁱ

The Red Cross

In 2014 to mark the EU anti-Trafficking day, the Polish Red Cross arranged a two-day seminar in November 2014 with key representatives of Polish ministries and representatives of state police, emergency service, border guard, and other NGOs.

The purpose was to improve the awareness of participants to the scope of human trafficking on the Polish-Ukrainian border, and to strengthen the position of the Polish Red Cross as a key partner in the fight against trafficking in the region. The seminar was coupled with public events at five different locations carried out by Red Cross volunteers across the autumn. Outreach included the wider civil society, governmental structures, NGO, religious communities and other stakeholders about the problem of child trafficking occurring on the Polish Ukrainian border.ⁱ

UNICEF

UNICEF has been lobbying over the last decade for further:

- Pro-active identification measures of child victims;
- A positive presumption of age; (rather than a culture of disbelief)
- The Appointment of Guardians; (this shows that the National appointed Guardian processes are not yet in place)
- Special measures to be in place during questioning and initial action,
- Referral and coordination;
- Interim care and protection;
- The provision of a Temporary Humanitarian Visa;
- Individual case assessment and identification of a durable solution;
- The views of the child shall be respected and their best interests the priority.ⁱ

Save the Children

Recommended in a report generated earlier this year (2017) that the Ministry of Family, Youth and Sports should take the lead in organising and co-ordinating assistance, specifically for child victims of trafficking. Currently this co-ordination is lacking, and despite the introduction of hotlines and shelters, particularly those underpinned by international funding, it is recognised that existing government decrees relating to trafficking, child protection, health services with child victims of trafficking in mind, need to be implemented and realised in more than ink on paper. Finally, the National plan being encouraged by Save the Children includes the aim of monitoring and analysing experiences of rehabilitation centres for trafficking victims and centres of socio-psychological rehabilitation of children. This process of monitoring needs to be conducted by some form of independent body with representatives from those in charge of national delivery of social services, with representatives from non-governmental and international organisations.ⁱ

20.1 What are the SHORTCOMINGS in relation to child trafficking? (e.g. Lack of data? No legal policies or framework in support of prevention or protection?)

The lack of a dedicated unit to oversee all the various aspects challenging the Ukraine in the early identification of prevention, protection (appointment of legal guardians etc) and consequent prosecution of key offenders who are running networks of child trafficking cohorts, needs to be addressed as a matter of urgency.

20.2 What are the FACTORS that INHIBIT effective efforts to prevent child trafficking in Country?

These are multiple. Much of this is down to the state of the country as it wrestles with the Russian-backed insurgency in Eastern Ukraine, the embryonic state of public protection services ability to deliver sustained counter trafficking prosecution initiatives, underfunding of social protection across the Ukraine, placing many in positions of profound vulnerability to trafficking, in particular the estimated 200,000 children in institutional care. Furthermore there is a new dimension of online abuse, and criminal smuggling network capacity to deploy ICT in a way which brings their capacity to exploit trafficked children beyond the effective surveillance of poorly funded Ukrainian policing and social protection agencies. Moreover, with the current unrest in the Eastern Region, there is the associated opportunities for those who kidnap, groom, rape, and mislead minors into sexual, military, labour and criminal trafficking to undertake these enterprises without concern about any successful prosecution being mounted against them.

In the current environment with stress on the internal political and economic systems of the country (population under 45 million), and a substantial number of its rural population having 'disappeared' in the early years of independence from Soviet jurisdiction through economic migration into other CIS and European countries, the economy has stalled in recent years. The population is 69.9 % urban (30,904,831 people in 2017), but sustained Russian aggression in eastern Ukraine has displaced nearly two million people. In areas controlled by the Russian-led

separatists, the situation has become particularly challenging. Employment options are limited and separatist 'authorities' have restricted international humanitarian aid that would help meet civilian needs.

Women and girls from conflict-affected areas have been reported as kidnapped for the purposes of sex and labour trafficking in Ukraine and Russia. Internally displaced persons have been subjected to trafficking, and some Ukrainian nationals have been subjected to forced labour on territory not under government control, often via kidnapping, torture, and extortion. The large displaced population and the economic crisis has increased vulnerability to trafficking throughout the country. International experts reported the demographics of Ukrainian trafficking victims has shifted since the beginning of the conflict to include more urban, younger, and male victims who are subjected increasingly to forced labour and criminality, such as couriers for drug trafficking.

Youth in penitentiaries, homeless children and the youth in vocational schools are the most vulnerable in terms of the propensity for risky behaviour. They are also least prepared for the level of dangers of the social environment which they inhabit. Homeless children – and there is a significant number of these hidden in the figure of two million displaced since the revolution of 2014 - are the most vulnerable in terms of awareness of the safeguards against human trafficking.ⁱ

Somewhat counter intuitively, orphans are the best informed about human trafficking – 62% of them have heard this information during the last year and, as mentioned above, they are the best informed about human trafficking situations.ⁱ However no matter how well informed children are about human trafficking risks, where there is the serious separation of children from protective social networks the range of abuse which can be realised on them through institutional neglect and the unscrupulous exploitation by unmonitored and poorly selected 'servants of the state' or deviant social 'entrepreneurs' is profound. This is why the Beta pilot being

undertaken with LUMOS funding and Canadian EDGE expertise with the full support of the Commissioner of the President of Ukraine for Children's Rights, Mykola Kuleba and officials of the Zhytomyr Regional State Administration in Zhytomyr on October 31, 2017, is an important beacon for change. This will undoubtedly have an effect on the numbers of children currently at risk of trafficking in and indeed 'into' state institutions.

It is hoped that the work of this report, will inspire other organisations and donors to consider practical support to work to develop a deeper resilience against trafficking in children. Work that is vital to assist the stretched resources of the Ukrainian State so that it can put in place systemic interventions against child trafficking, including building capacity, knowledge, best practice and training to prevent the exploitation of its children.

ERIC MATHEWS, E. R., LAURIE AHERN, HALYNA KURYLO 2015. No Way Home, The Exploitation and Abuse of Children in Ukraine's Orphanages. Disability Rights International.

GRETA and the Ukrainian Government's Response. July 2017. Reply from Ukraine to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. Second round evaluation – reply submitted 3rd July 2017)

GRETA 2014. Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ukraine Strasbourg: Council of Europe.

KARPACHOVA, N. 2010. State of Observance and Protection of the Rights of the Child in Ukraine: Special Report of the Ukrainian Parliament Commissioner for Human Rights. Kiev: Ukrainian Parliament Commissioner for Human Rights



CONCLUSION

Reading through this child mapping research, all the protagonists have to be congratulated for raising the many issues which enable this crime to continue and increase. It is highlighted over and over again that today's reality leaves us in a world where massive displacement and internal mobility, cybercrime, the increasing gap between the rich and the poor, a pandemic wave of corruption in states across the globe, greed and an inability for many to face the fast changing realities around us, has led to a clandestine criminal underworld which is challenging those who work for justice. It is inviting many, who are called to be at the coalface confronting this crime, to honestly stand up and work together to rid the world of such a scourge on the side of humanity, and to cease their work of colluding with the criminals themselves.

It is clear from the seven country reports in this particular mapping exercise, that there is a lack of updated data at all levels of the crime of human trafficking and thus law and justice is not able to face what is not openly known in terms of analysis and facts and figures. The truth however is understood, that the reality is far greater than those figures written down. It is hoped that this mapping of child trafficking will lead to more action on the part of all the specialists in the field. RENATE calls on them to work more closely together and to heed the advice given in the many reports quoted in this document and in the research conducted in the field, over the last year. The aim of RENATE, as with the SDGs and Pope Francis in Rome, is to 'Rid the World of Human Trafficking by 2030'. Let us unite to achieve this goal.

We conclude this report with the words of a young person speaking her truth. This story was told by an 18 year old whose family rescued a minor in Albania and protected her from the traffickers. It was a very brave action and today we know the need for protection and close working together, nevertheless this brave action saved a life. What would we do?

"One of the days of the UN.GIFT Box Campaign in Shkodra, in 2017, a girl age 18, after reading the stories carefully inside the Box, approached us expressing her



appreciation for the information we were sharing. She then told us the story of how her family had sheltered a trafficked young girl coming from Elbasan. The girl in words had run away from the place she was being exploited and had arrived in Shkodra, not knowing where she was. She had knocked on this family's door and they had taken care of her for one year. She was tracked by the traffickers and all the family felt in danger. At some point they had arranged everything for her to fly to another country. Her parents thought she was dead, until a few months ago, when they were contacted by the people who helped her daughter when she was in need. At the present time, she is living and working abroad, thanks to the help that she was given by a random family who opened its doors and hearts for her. The girl at the Box shared a very important message telling this story, pointing out that every person can actually do something to support the victims of this terrible crime".
(www.albaniahope.com)

Imelda Poole, IBVM, President RENATE.