



# TEMVI

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## TRAFFICKED AND EXPLOITED MINORS BETWEEN VULNERABILITY AND ILLEGALITY

FORCED CRIMINAL ACTIVITIES AS A NEW FORM OF  
EXPLOITATION IN HUMAN TRAFFICKING: KNOWLEDGE  
AND HUMAN RIGHTS BASED PRACTICES THROUGH  
PILOT RESEARCH AND MULTI-AGENCY TRAINING  
AND PROTOTYPE-PROCEDURES  
(HOME/2013/ISEC/AG/THB/4000005491)

## FINAL REPORT

CO-FUNDED BY THE PREVENTION  
OF AND FIGHT AGAINST CRIME  
PROGRAMME OF THE EUROPEAN UNION



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### FINAL REPORT

## TEMVI

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- MUNICIPALITY OF VENICE (ITALY)
- EQUALITY SOCIAL COOPERATIVE (ITALY)
- VOLONTARIUS ASSOCIATION (ITALY)
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- AUTONOMOUS PROVINCE OF TRENTO (ITALY)
- AUTONOMOUS PROVINCE OF BOLZANO (ITALY)
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## I. INTRODUCTION

### A PROJECT ON TRAFFICKING IN HUMAN BEINGS WITH A NEW CHALLENGE: TACKLING FORCED ILLEGAL ACTIVITIES

Marco Bufo<sup>1</sup>

#### A NEW CHALLENGING UNDERTAKING IN THE ANTI-TRAFFICKING SCENARIO

The European Union Directive 2011/36/EU on preventing and combating Trafficking in Human Beings and protecting its victims, lists in art. 2.3 the main forms of exploitation which are the purpose for trafficking in human beings, and for the first time also the “exploitation of criminal activities” is included in an international legislative document.

The Directive was defined through a multi-faceted consultative process<sup>2</sup> which brought to an updated and comprehensive legislative tool to fight human trafficking and to protect victims, based on a human rights and multidisciplinary, integrated approach and on the awareness that trafficking in human beings (THB) is an ever changing, hideous and hidden widespread phenomenon.

This hidden, underground feature makes THB hardly recognized as such and difficult to detect, and this is particularly true for trafficking into forced criminal activities since the victims appear as offenders, as they are committing crimes (such as pick pocketing, shoplifting, selling of counterfeited products, fraud, drugs production or trafficking or sale) and it is not at all obvious that they were forced to do so, also when they are children. This fact poses two main problems in tackling the phenomenon: the identification of trafficked persons (which is a major problem in all forms of exploitation, reaching its apex in forced criminal activities) and the protection of victims (since it is necessary not only that they recognize themselves and are recognized as such, but also that they are not punishable for the crimes they have committed because they were coerced to do so and, also, since often specifically tailor-made measures are necessary in order to make assistance and social inclusion measures effective).

Since the admission of Hungary, Romania, Bulgaria, the Slovak Republic and Croatia in the EU, and the Mediterranean political crisis, there has been both an increase of migration

flows from those areas and an increase of new vulnerable groups, including those to be exploited in forced criminal activities, particularly, but not only, among Roma minors and, to a lesser extent, adults. These target groups have not so far received enough attention in the framework of analysis and monitoring aimed at improving the acknowledgment of new forms of trafficking. Nevertheless, practitioners and observers have noticed that in the framework of the recent changes in the phenomenon of trafficking in human beings, it is possible to suppose that this target of persons in vulnerability conditions is present especially in the urban areas in which different forms of illegal activities such as robbery, drugs pushing, bag-snatching are concentrated and frequently mixed with other forms of exploitation such as forced begging and sexual exploitation. Therefore, the involvement of both adults and minors in illegal activities managed by criminal structures or networks represents one of the most difficult forms of exploitation to identify, because often these people emerge as authors of crime rather than victims of exploitation.

The gap in the human rights sphere as a failure in granting the rights of the persons trafficked into forced criminal activities, is reflected in the gap in the multi-agency approach in a dual way: the professionals of the different agencies which usually intervene in the better known forms of trafficking (sexual exploitation and, to a lesser extent labour exploitation) don't meet the victims or/and don't recognize the victims as victims; other agencies which come in touch with the affected persons are not part of (or structurally linked to) the established anti-trafficking systems and lack the knowledge and tools to recognize the signs of trafficking: for example stakeholders belonging to the Juvenile justice system, to the Asylum seekers and refugees system, to the Unaccompanied minors protection system. So there is a knowledge gap in the existing anti-trafficking networks and there is a physical gap in their composition as some relevant stakeholders are not on board as main or secondary partners. As a consequence there is a gap in the referral mechanisms and in the operating procedures (when in place) in their ability to identify, protect, assist, offer viable social inclusion opportunities to the children and adults trafficked into forced criminal activities and in their ability to combat the crime.

Thence, if trafficking in persons is modern day slavery occurring in our societies in different ways and under different forms, most of the times under our unaware eyes, this is especially true for trafficking for exploitation in illegal ac-

tivities. Moreover, the current situation does not help in addressing the issue.

The EU Directive can be considered as a milestone in the European anti-trafficking scenario with at present a double-fold face: it is the most advanced and comprehensive tool for tackling THB and protecting victims, but at the same time its transposition and especially its practical implementation by Member States falls under a problematic period where other priorities seem to shadow THB. In fact, on the one hand, finally a comprehensive and binding instrument is available in order to build a harmonized anti-trafficking and referral system for trafficked persons in Europe, with a human rights based and interdisciplinary, multi agency approach, tackling not only the “traditional” forms of exploitation but also considering the newest and less known forms. Therefore the Directive represents an extraordinary opportunity to take advantage of all previous achievements and successful experiences at the EU level (for instance the outputs of the numerous EU-funded projects) but especially at the national level (for example National Action Plans, National Referral Mechanisms, National Rapporteurs) and even in single local areas (for instance good practices, multi-agency protocols and procedures) and have them organized in a systematic way in all Member States. On the other hand, the impression is that despite all what is said above, the fight against trafficking in human beings in substance is not a priority anymore in Europe. Actually, it seems it is no longer on top in the political agenda because of a series of reasons that instead should urge States and EU to raise their endeavor in fighting trafficking and protecting victims even more: the not yet overcome economic crisis, the impressive growth of migratory flows and their mixed nature. These phenomena attract the attention and resources of governments pushing trafficking almost out of the scenario, while in the reality, trafficking is part of such phenomena. In fact, to a significant extent, people which are recruited in their home countries in order to be exploited in different European destination countries are trafficked being “smuggled” within the broader migratory waves and within the groups of people applying for international protection. So, while in the past the routes of trafficking and those of smuggling were generally separate, this is less and less the case nowadays. On the other side, within the enormous groups of migrants arriving and staying in the European Member States across different stages of reception, insertion in the identification and screening mechanisms, inclusion in the protection systems, because of

their vulnerability, many individuals are likely to fall into exploitative networks, whose actors can strategically operate at such different stages. Moreover, vulnerability has increased due to the effects of the economic crisis and affects the newcomers as well as those which have arrived since quite a long time (may be even already assisted as trafficked persons) making them vulnerable to exploitation and to fall in the mechanisms managed by traffickers.

As a consequence, dealing with trafficking into forced illegal activities is a double-challenging initiative: because of its impenetrable character on the one hand, and on the other hand because trafficking is neglected at the political and as a consequence at the operational level. The latter observation means that if even for the most known forms of exploitation related to trafficking attention and efforts have decreased, it is unlikely that they focus on an unknown and more difficult-to-grasp phenomenon like trafficking in criminal activities.

Those reasons are the main motivations which led the Human Rights Centre of the University of Padua, supported by the operating and methodological field experience of the Municipality of Venice, to design the initiative and build a partnership with significant organizations in key origin and destination countries for trafficking into forced criminal activities, and to

set up together the TEMVI Project.

#### ADDRESSING TRAFFICKING INTO FORCED CRIMINAL ACTIVITIES THROUGH KNOWLEDGE AND HUMAN RIGHTS BASED PRACTICES AND PROCEDURES: THE TEMVI PROJECT

The Project “TEMVI - Trafficked and Exploited Minors between Vulnerability and Illegality. – Forced criminal activities as a new form of exploitation in human trafficking: knowledge and human rights based practices through pilot research and multi-agency training and prototype-procedures” is funded under the Prevention of and Fight against Crime Programme of the European Union, which is a positive counterbalancing sign of the worrying scenario depicted above.

Its focus is well expressed in its title and subtitle and it involves actors operating in both countries of origin (Hungary and Romania) and countries of transit and destination (France and Italy), in a partnership where organizations with different yet complementary mandates and expertise (a University, Local Authorities and their public social services, NGOs, Ministries of Justice and Home Affairs, national, regional and local anti-trafficking bodies, service providers and law enforcement agencies) share

the commitment to tackle trafficking in forced illegal economies in order to identify, protect and assist victims and potential victims, and to fight against criminal networks, all adopting a multi-agency and human rights-oriented approach.

The partnership is composed by following organizations: University of Padua – Human Rights Centre (lead partner); Municipality of Venice; Equality social cooperative; Volontarius association; Nuovi Vicini onlus; La Strada – Der Weg association; Azalea social cooperative (Italy); Association ALC (France); Hungarian Baptist Aid (Hungary); ADPARE (Romania).

Importantly, national level and local bodies participate in the project as associates: Ministry of Justice – National Anti-mafia Agency; Ministry of the Interior – Central Service against Organized Crime; Cinformi – Welfare and Labour Department – Autonomous Province of Trento; Autonomous Province of Bolzano; Municipality of Trento, Social Activity Service; following NGOs: Gruppo R, Punto d'Approdo, Centro Caritas dell'Arcidiocesi di Udine, La Tenda onlus, Welcome association (Italy); International Organization for Migration, Mission in Hungary.

The main objectives and expected results of the project, and the corresponding activities under Work Packages are:

OBJECTIVES, EXPECTED RESULTS	WORK PACKAGES, ACTIVITIES
- to provide a first knowledge basis on a non- or poorly investigated phenomenon such as trafficking for the purpose of exploitation in forced criminal activities, with a specific focus on Roma minors, developed in 4 key origin and destination countries;	1. Research on the phenomenon of human trafficking for the purpose of exploitation in forced criminal activities and on intervention practices
- to provide an analysis of practices related to the identification, referral and assistance of persons trafficked and exploited in forced criminal activities;	
- to develop and propose prototype agency-specific and multi-agency practices for the identification, referral and assistance addressing victims of such phenomenon;	2. Joint analysis of research data results about trafficking into forced criminal activities and identification/definition of operative practices
- to strengthen competencies and skills of the key-stakeholders in identifying and tackling the often misunderstood and underestimated phenomenon of trafficking in forced criminal activities and protect the victims through national multi-agency training courses to be developed in the 4 countries;	3. Multi-agency training and definition of multi-agency protocols and operating procedures patterns
- to define and promote Multi-agency Operating Procedures for the identification, referral and assistance of victims of trafficking in forced criminal activities, in order to enable the national anti-trafficking systems to effectively respond to the challenges of such phenomenon and to the specific needs of the target groups;	
- to test and validate, through practical implementation in Italy, the defined agency-specific and multi-agency practices and operating procedures, in order to provide a transferable and sustainable model;	4. Testing defined practices in Italy. Experimental implementation in the Trivneto Area (3 regions) of the designed operating procedures for the identification and assistance of minors trafficked into forced criminal activities
- to widely raise awareness on such hidden phenomenon among stakeholders, the population and victims/potential victims in the involved countries by means of a multi-lingual video;	5. Awareness Raising and Dissemination
- to positively influence anti-trafficking policies in considering the specific features of trafficking and exploitation in forced criminal activities (especially of Roma minors), and the specific needs of the affected vulnerable groups, by means of national and European widespread dissemination of project results (publication, final conference, specialized websites).	



## ABOUT THIS PUBLICATION

This publication contains the main outputs of the first three Work Packages of the project:

- the Research Reports produced for each of the 4 involved countries about trafficking for the purpose of exploitation in criminal activities: *phenomenon, policies and practices, training*;
- the preliminary document *Referral Practices and Procedures for Persons Trafficked in Forced Criminal Activities, basis for the Prototype and the Experimental Procedures*;
- the document *The Local Referral Mechanism and the critical areas of concern regarding forced criminal activities, which is the background paper for the "Idealtype Prototype"*;
- the *Idealtype Prototype of Multi-Agency Practices for a Referral System for Children Trafficked and Exploited into Forced Criminal Activities*;
- *Draft Memorandum of Understanding for the establishment of experimental and multi-agency operating procedures on the emergence, the identification, the referral of and the first assistance to minors trafficked into forced criminal activities, developed in the Triveneto area, Italy*;
- *Outline for the interviews to stakeholders*.

The Research Reports differ significantly, reflecting the different situations in each partner country, under different perspectives: the phenomenon of trafficking into forced criminal activities and the broader trafficking phenomenon; the anti-trafficking legislation, policies, coordination mechanisms and referral systems; the availability of data and of expertise on the specific topic. As a consequence the Reports differ not only in length but also in terms of contents and scope of the research. However each report provides a picture of the trafficking phenomenon and of the anti-trafficking framework in the country, and offers an analysis of trafficking into forced criminal activities and existing measures and obstacles in facing it and in protecting

victims, whose voices are reported too. The research was carried out through desk research (including data analysis where available), interviews to stakeholders and presumed and identified victims.

Since the results arising from the research showed the lack of interventions and practices in the field, the project team could not exactly work on the "identification of validation, structural and transferability criteria of detected best practices" but worked out a set of possible practices to be implemented in tackling trafficking into forced criminal activities. So, a sort of "best practices design" was shaped into the document "Referral Practices and Procedures for Persons Trafficked in Forced Criminal Activities" consisting in the identification and analytical collection of methods and agency specific and multi-agency practices adopted or to be adapted in the identification, referral, assistance and social inclusion of victims of trafficking in forced criminal activities, with particular reference to Roma minors.

The above document also served as a basis for designing the "Idealtype Prototype of Multi-Agency Practices for a Referral System for Children Trafficked and Exploited into Forced Criminal Activities". It is an agency-specific and multi-agency human rights-based Transnational Prototype of referral practices and procedures for the identification and protection of persons trafficked into forced criminal activities (with also a specific focus on minors and on Roma people).

The "Idealtype Prototype" was conceived as a basis for the development of Country-specific Prototypes and of Experimental Operating Procedures of Emergence, Identification, First Assistance and Long Term Assistance and Social Inclusion (to be worked out during the multi-agency trainings and workshops in each country and to be afterwards finalized and possibly endorsed by the actors involved as well as to be made available for transferability). In fact in the Triveneto area in Italy (Veneto, Friuli Venezia Giulia, Trentino Alto Adige) the multi-agency team involved in the training and in the implementation of experimental identification and assistance activities, led by the Municipality of Ve-

nice, worked out a Draft Memorandum of Understanding for the establishment of experimental and multi-agency coordinated actions aimed at tackling the phenomena of trafficking and severe exploitation of minors in forced criminal activities which codifies Experimental Operating Procedures concerning the emergence, the identification, the referral of and the first assistance to minors trafficked into forced criminal activities.

The TEMVI Project set a first knowledge basis and developed a new awareness among stakeholders in the countries involved, which also thanks to the joint multi-agency training activities, allowed to design as well as to experiment mechanisms and procedures aimed at the identification, assistance and social inclusion of persons (minors in particular) trafficked into different types of forced criminal activities.

Thence TEMVI means, attention, awareness and multiagency operational capacity towards the new and unfamiliar phenomenon of trafficking for exploitation in forced illegal activities but also, thanks to this, a contribution to revitalize the focus on trafficking in general and to the crucial issue of the mechanisms and procedures (to be) set up to identify and protect victims and to combat the phenomenon.

## II.

### NATIONAL RESEARCHES ON FORCED CRIMINAL ACTIVITIES AS A NEW FORM OF EXPLOITATION IN HUMAN TRAFFICKING

#### 1) FRANCE<sup>3</sup>

##### 1) GENERAL FRAMEWORK ON TRAFFICKING

###### a) Definition

Trafficking in Human Beings is defined by the article 4 of the Council of Europe Convention on Action against Trafficking in Human Beings (Warsaw 2005):

- *"the recruitment, transportation, transfer, harbouring or receipt of persons, [an action]*
- *by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, [a mean]*
- *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<sup>4</sup>". [a purpose]*

###### b) International law

The first international definition of human trafficking has been established in 2000 by the Palermo protocol at the United Nations convention about transnational criminality in order to prevent, repress and punish human trafficking.

This definition has been taken over by the Council of Europe in the Convention on Action against Trafficking in Human Beings (Warsaw 2005) and also by the European Parliament and the Council in the Directive 2011/36/EU concerning the prevention, the fight against human trafficking and the protection of the victims.

The approach of the Warsaw Convention is focused on the human rights and on the protection of the victims regardless of their willingness to cooperate in the legal proceedings. A group of experts on human trafficking (Greta) has been nominated in order to assess the implementation of the convention in the signatory states.

The reports on France were published in January 2008 and January 2013 by the Greta, they have highlighted the gaps between the national legislation and the European legislation. One of the recommendations was to modify the definition of human trafficking in order to include expressly among the purposes: exploitation for the purposes of forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

The Directive 2011/36/EU harmonizes the definitions and the minimum sanctions for the facts of human trafficking. The national legislations must punish all forms of exploitation:

- *Exploitation of prostitution or other forms of sexual exploitation;*
- *Work or forced services (forced begging, slavery or practices like slavery, servitude, exploitation under forced criminal activities, or organs removal).*

Exploitation occurs when a restraint has been imposed on a person (threat or use of force or other forms of coercion, of abduction, of fraud, of deception); regardless of the victim's consent.

It means that even if the person agrees to come in France knowing that she is going to become a prostitute or work for a family as housekeeper or beg in the street... if she is deceived on the nature of the contract, if she is victim of abuses, violence, or threats and by consequence she is in a situation of submission, enslavement, she is a victims of human trafficking.

The directive prescribes to set in place minimum sanctions: the sentence for these infractions must be fixed at least five years of jail and at least ten years when there are aggravating circumstances for instance when the victim is less than 18 years old. Other characteristic for the minors even if there are no means of restraint used, the

facts of exploitation are enough to characterize the crime of human trafficking.

The member states must ensure to offer assistance and a support to the victims before, during and after the penal proceedings in order for the victims to use their rights attached to the victim status in the case of the penal proceedings. This support can consist in the providing of housing, medical care, psychological help, but also information and services of interpreting and translation if necessary. The children must be able to benefit from complementary measures like a physical and socio-psychological assistance, access to education and if not, the possibility to designate a tutor or a guardian.

About France, the government ratified the convention and transposed the directive in intern law. Indeed if France is respecting its international engagements, the coordination of the fight against human trafficking on the national territory is not optimal yet.

#### Focus: Victim or criminal?

Member States may decide not to prosecute or punish victims of trafficking in human beings for their involvement in criminal activities which they were forced to do.

#### Warsaw convention 2005

##### Article 26 – Non-punishment provision

Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.

#### Directive 2011/36

##### Article 8 - Non-prosecution or non-application of penalties to the victim

Member States shall, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled

to commit as a direct consequence of being subjected to any of the acts referred to in Article 2.

### c) National legislation: A partial transposition of the directive followed by the adoption of a national plan against human trafficking

After Greta's reports and in application of the European directive 2011/36/UE, France has adopted late compared to the delay of transcription, the Law of the 5th of August 2013 that modifies the definition of human trafficking contained in the article 225-4-1 of the penal code and introduces the definitions of force labour, reduction in servitude and slavery.

Now the definition of human trafficking is in accordance with the European and international law. It enumerates the necessary means in order to qualify the facts of human trafficking and describes clearly the forms of exploitations linked to human trafficking. The focus is put on all forms of exploitation: prostitution, forced labour, servitude, forced begging, organs trafficking and forced criminal activities.

### d) Modification of the penal code

In France, the article 225-4-1 of the penal code defines human trafficking. This article, introduced in 2003 by the law on internal security has been modified by the **law n. 2013-711 of 5th August 2013**<sup>5</sup> containing diverse dispositions of adaptation in the justice domain in application of the European Union law and the international engagements of France.

Indeed, human trafficking is defined as "... the fact to recruit a person, transport, transfer, harbouring or receipt her with the purpose of exploitation in one of the next circumstances:

1° by the use of threats, coercion, violence or fraudulent tactics targeting the victim, her family or a person in relation with the victim;

2° by a legitimate ascendant, natural or adoptive of this person or by a person with authority over the victim or person who misuses the authority conferred by his

functions;

3° by the abuse of a position of vulnerability due to a person's age, sickness, infirmity, physical or mental deficiency or pregnancy, apparent or known by the author ;

4° by exchange or by granting compensation or other benefit or promise of remuneration or benefits.

The exploitation mentioned in the first indent of this article is the fact to put the victim at the disposal of the author or a tierce person, even if not identified, in order to commit against the victim the infraction of priming, sexual assault, reducing in slavery, forced labour and services, reduction into servitude, removal of an organ, forced begging, working and housing conditions incompatible with human dignity or to force the victim to commit criminal activities".

In the article 225-4-1 the offence of trafficking is punishable by seven years' imprisonment and a fine of 150 000 euros.

Otherwise, the **articles 225-4-2 to 225-4-4** of the penal code precise the aggravating circumstances of human trafficking.

Under **Article 225-4-2**, the following constitute aggravating circumstances punishable by 10 years' imprisonment and a fine of 1 500 000 euros only if two means presents in the **article 225-4-1**

(1° à 4°) are used, or if the infraction of human trafficking is committed:

1° on several persons;

2° on a person outside the French territory or upon the arrival on the republic territory

3° when the person has been put in contact with the author of the facts through the use, by the dissemination of messages to an unrestricted public, from an electronic communications network;

4° in the circumstances when the victim was directly exposed to an immediate risk of death or injuries likely to result in mutilation or permanent disability

5° with the use of violence that caused the victim total incapacity for more than a week of work;

6° by an individual whose duties require participating in action against traffi-

cking or maintaining public order;

7° if the offense has placed the victim in a serious material or psychological situation."

A punishment of 20 years' imprisonment and a fine of 3 000 000 euros is provided by the **article 225-4-3** of the penal code in cases where the trafficking offence is committed by an organized gang.

**The article 225-4-4** of the penal code provides a life sentence and a fine of 4 500 000€ if the authors of the crime used torture or committed acts of barbarity on the victim.

**The article 225-5** of the penal code defines **pimping** as the fact to:

1° support, assist and protect the prostitution of others;

2° benefit from the prostitution of others, and to share or receive the money of a person who work as a prostitute;

3° recruit, bring against her will or corrupt a person for the aim of prostitution or exert pressure on that person to work as a prostitute or to continue to do so".

The aggravating circumstances of pimping are defined by the **articles 225-7 to 225-9** of the penal code<sup>6</sup>. **Article 222-22** of the penal code: "a sexual assault, is an act of a sexual nature committed with threats, coercion, violence or surprise".

**Exploitation of begging** is defined by the **article 225-12-5** of the penal code<sup>7</sup> as the fact to organize and to benefit from the begging of others and/or hire, exert pressure on a person in order to force her to beg.

**The working and housing conditions incompatible with human dignity** are determined in the **articles 225-13** and **225-14** of the penal code:

- "To obtain from a person, whose vulnerability or dependence is obvious or known to the author, to furnish unpaid services or in exchange for a payment clearly unrelated to the amount of work accomplished » (art 225-13 of the penal code)

- "To subject a person whose vulnerability or dependence is obvious or known to the author, to conditions of work or accommodation incompatible with human dignity (art. 225-14 of the

penal code).

In addition of the modifications on the existing articles the **law n. 2013-711 of 5th August 2013** has also instituted in the penal code the **crime of reduction into slavery**. The article 224-1 A of the penal code defines the term **reduction into slavery** as "the fact to exert on a person one of the attributes of the ownership rights".

Besides, the **article 224-1 B**. enounces that "the exploitation of an enslaved person is the fact to commit against a person whose enslavement is apparent or known by the author, a sexual assault, or sequester or subject her to forced labour or services".

The **article 511-2** of the penal code punishes "the fact to obtain from a person one of her organs in exchange of a payment whatever the form".

### e) Inter-ministerial co-ordination network for the protection of women victims of violence and for the fight against human trafficking (MIPROF)

In order to support the penal reform and organize a coordination of the actions on the French territory, the decree of the third of January 2013 has created the Inter-ministerial co-ordination network named mission for the protection of women victims of violence and for the fight against human trafficking (MIPROF).

This organization has the objective to set in place a coordination mechanism and a national strategy in order to fight the phenomenon. In May 2013 the MIPROF announced a national plan 2014-2016 to fight human trafficking. **3 priorities and 23 measures** have been identified:

#### Priority I – Identify and support the victims of human trafficking

##### Identify the victims for a better protection

- Measure 1: Reach out to the victims and promote access to rights
- Measure 2: Develop the training of the professionals about identification and victim protection
- Measure 3: Inform and alert the general public
- Measure 4: Raise awareness among vulnerable publics

#### Give safety to victims

- Measure 5: Guarantee the access to stay and residence for the victims even if they cannot cooperate with the police forces
- Measure 6: Make easier the administrative domiciliation at the time of the deposit for the residence permit application
- Measure 7: Increase and adapt the housing solutions for the victims of human trafficking
- Measure 8: Develop and make the secure refuge provided by the "dispositif Ac.Sé" known
- Measure 9: Build a way out of prostitution

#### Guarantee an unconditional protection for the minor victims

- Measure 10: Ensure a specialised support for the minors victims of human trafficking within child protection
- Measure 11: Define an adapted protection for the minors who are at the same time authors and victims

#### Priority II - Prosecute and dismantle the criminal networks

##### Mobilize in a concerted way all the investigations means against the criminal networks

- Measure 12: Make sure that human trafficking incrimination is being more often enforced by public prosecutors
- Measure 13: Increase the observation skills of the labour inspectors about human trafficking infractions
- Measure 14: Mobilize against human trafficking

#### Reinforce international and European cooperation against human trafficking

- Measure 15: Promote in the different international forums an integrated approach on human trafficking (prevention, repression, protection and partnership)
- Measure 16: Encourage our partners into the ratification of the existent tools
- Measure 17: Ensure the presence of French experts in the international organizations
- Measure 18: Define an agenda of cooperation against human trafficking at the European level with a multilateral

approach

- Measure 19: Carry out technical assistance towards the origin countries (and transit) and destination countries



### Priority III – Make the fight against human trafficking a public policy in its own right

- Measure 20: A plan followed and coordinated by a project administration
- Measure 21: A fund dedicated to the victims of human trafficking and for the professional insertion of the prostituted persons
- Measure 22: Departmental coordination of the answers to human trafficking
- Measure 23: A policy judged and evaluated by an independent institution (national rapporteur).

The existence of this plan should not hide the fact that the application is for now delayed. There is not any financing allocated in order to set in place the plan and the personnel is at the minimal level. If some measures has been realized for instance:

The Law 2014-873 of 4th August 2014 for real equality between women and men modified some dispositions in favour of the victims of human trafficking who filed a complaint or testified. Now for the delivery and the renewal of the residence permit under the terms of the article L. 316-1 of the CESEDA (Code of the Entry and Stay of Foreigners and Asylum Law) people are exempted of the taxes and of the stamp duty.

But the most urgent measures and the most ambitious ones are for now delayed and put on hold. The recruitment has not been done yet, for instance the 50 positions of cultural mediators stipulated in the measure 1 have not yet been filled.

Then, the financing of some measures is suspended for an undetermined time because the law project against the prostitution system has been blocked for 6 month at the senate. Besides the delays, some associations are critical about the plan which is for them too much orientated towards the fight against sexual exploitation and not enough about the others forms of exploitation.

## 2) THE RESEARCH METHODOLOGY AND SOURCES

According to the general TEMVI Project methodology this research is based on reports and scientific articles. Concerning the field research we decided to focus on one criminal organization using Romanian children for stealing in Paris since 2009. To collect information on it we conducted:

- institutional stakeholders interviews,
- semi-guided interviews with people from the community,
- informal interviews with victims or children at risk.

### List of interviews

- 10 Children (informal interviews) on camps and streets
- 5 people from this Roma community
- Phone conversations with Romanians authorities (SPAS, DGASPC, local Police, Roma mediators).
- Educators from NGO Hors la Rue
- Brigade de protection des mineurs (French police for Child protection)
- Educators from judicial youth protection service (Protection judiciaire de la jeunesse) and two directors of educative unit (UEMO)
- One former director of an educative unit currently project manager for women's rights and equality in the PACA region.

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## 3) FIELD RESEARCH ON A GROUP OF ROMANIAN CHILDREN EXPLOITED THROUGH MOBILE PHONES THEFT IN THE PARISIAN REGION

### a) General overview on the criminal groups using minors coming from Romania in France

According to the interviews conducted with the Minors' Protection Brigade (MPB or BPM in French) and the Unit for the Fight Against Clandestine Immigration (or Unité de lutte Contre L'Immigration Clandestine/UCLIC in French) the criminal groups coming from Romania and using an important number of minors for theft is limited to 4 or 5. Their common characteristics are:

- a precise geographical origin limited to a few neighbourhoods or to a narrow number of towns,
- a family and community basis used for the psychological hold/influence of the victims,
- a modus operandi specific to each group (theft by the Automated Teller Machines or ATMs, theft of mobile phones, pick pocketing using fake petitions etc.),
- ramifications in different Eastern European countries fostering children movements or transfers.

In France, because of the presence of numerous tourists, the activity of these groups focuses mainly on the Parisian Region. In the Southern France, these groups come more from the former Yugoslavia (Serbia, Bosnia, and Croatia). The minors are used for burglaries and occasionally practise pick pocketing. Speaking of the Romanian minors who are the subject of our research, the people exploiting them (in-law families, families,

uncles etc.) live in slums in the middle of precarious families who do not have criminal activities in order to complicate police investigations. This method usually leads to casting scorn (heap opprobrium) on all the people living in the slums, and generally, on Roma migrants.

### Since 2009, 4 groups are particularly active:

- the minors from the town of Videle and the surrounding towns (Teleorman county), present in the Parisian Region as of the year 2000 ; the adults of this group are specialised in the location and management of illegal land especially in Seine-Saint-Denis by inflicting a "tax" on the occupiers they are placing; the young girls are forced to steal from tourists, often by posing in mute and deaf persons collecting money for a fictitious association with the help of fake petitions,
- the minors coming from the town of Tandarei (Ialomita county) present in the United Kingdom, Spain, Portugal and Germany ; they are known in France for practising theft by deception (and more rarely by violence) on the people withdrawing cash from ATMs,
- the minors from the city of Braila used for mobile phones theft, who are the object of this study,
- the minors from the city of Constanta used for mobile phones theft and who are also the subject of this study.

Regions of origin of Romanian groups using minors in France:



Except these 4 groups, other criminal organisations using children occur sporadically for limited periods of time. One of the most media covered organisation recently is the one using children as pickpockets inside the Louvre museum (originating in Iasi).

### b) Figures on this phenomena Figures in Paris Area about minors involving in forced criminality

MINORS BROUGHT TO THE COURT	2011	2012	2013	2014
Romanian	850	584	605	505
Algerian				500
Moroccan + Tunisian	64	56	-	82

From 2011 to 2014 the real number of Romanian children was around 200 each year. Due to the aliases (fake names) use by the minors there is an important difference between official figures and the real number of children.

Source: Prise en charge des mineurs isolés étrangers STEMO Paris Centre, Bilan de l'année 2014, Minister of justice, France, 2014



### Estimated rate among Romanian children living in shanty town used for committing crimes in Paris Area

In March 2013, the Délégué interministériel pour l'hébergement et l'accès au logement (DIHAL), a French government housing assistance service, estimated there were 11,836 people living in makeshift camps in the Île-de-France region. The Inspection générale des affaires sociales (IGAS), France's supervisory agency for the welfare sector, arrived at a similar figure of 11,653 for the same period. Although there are no official estimates of the number of children in these places, in the course of assessments I carried out in around 15 shanty towns, I found that children accounted for between 50 per cent and 60 per cent of the inhabitants, it means around 6,000. To put this into some kind of perspective, the proportion of these children being coerced to commit crimes is somewhere **between 3 to 5 %**.

### c) Choosing a group present in France and Italy and originating in Romania

Taking into account the European project framework and the partner countries, it seemed relevant to us to focus our research on 2 children groups who are forced to commit crimes in France and Italy originating in Romania (pick pocketing, mobile phones theft).

These minors come essentially from the towns of Braila, Constanta and to a lower extent, from Galati and Iasi. Considered to be different by other Roma groups, they belong to a group called Pletosi (long-haired or hairy in English) and are perceived as inferior from a social point of view<sup>8</sup>. The Pletosi consider themselves as the bearers of a tradition that no other Roma group shares. This very reason is called upon by the adults in order to justify the maintenance of strict endogamy rules, meaning who are limited to their group only.

### d) The Pletosi: path in Romania and re-enforcement of community logics

i) Heterogeneity of Roma groups and scalable community practices

*In order to better understand the hetero-*

*geneity of Roma groups, it is necessary to make a short historical reminder. The first Roma arrivals in Europe date from the XVth century. They spread over a century between 1400 and 1550. These populations, having left India around the 5th century, settle in most countries in Europe, with important concentrations in the Balkans and Southern Europe. Their arrivals on the continent being so old, their traditions, cultures, religions are linked to the history of the territories and regions where they settled. Hence, one can speak of Roma societies, using the plural, in the whole of European countries, and not of one Roma people bearer of the same tradition.*

*Between the Roma from the South of Romania and those in the West of Romania, their way of dressing as well as their internal rules is different. They stem from local customs transformed and re-interpreted by the native Roma in order to appropriate them. There is no specific social Roma organisation. Not even a Roma culture fostering, or not, criminality and exploitation. The Roma in Romania, and more generally in Europe, spread among different groups, function of their common geographical origin, kinship and the practice of traditional handicrafts. Each group cultivates a specific identity through a community practice in constant adaptation in relation to the transformation of the majority society. The group of Pletosi follow on this functioning claimed as traditional, but which is, actually, relatively recent.*

ii) Establishment of Pletosi in Braila and Constanta and re-enforcement of community logics

*The Pletosi, named as such because of the long hair men were wearing, used to make a living from itinerant handicraft activities all over the Romanian Moldova (Focsani, Vaslui etc.). In 1976, Ceausescu adopted a law<sup>9</sup> for the forced settlement of itinerant or nomad populations. The Pletosi were therefore put in social housing compounds (called Nato "buildings") in Braila, Galati and Tulcea because of the important need for low qualified work force for the numerous industrial factories in the region (SIDEX,*

*ICPCM etc.). During the '90s, after the fall of Ceausescu, these important industrial centres, not very profitable, were facing bankruptcy. Their workers were massively affected by unemployment, leading to the economical decline of the entire area and throwing a significant number of families into precariousness. The Roma were among the first to be laid off. The Romanian population started to drain from the initially mixed neighbourhoods (where the recently settled Roma, among which the Pletosi, had been sent to live), thus leaving behind poverty pockets abandoned by the public authorities. The neighbourhoods of Braila Lacul Dulce, Chercea and Izlaz, where most of families lived, turned to a grey economy: scrap iron selling, begging etc. Some of them turned to small crime activities and professionalised during their travels abroad. The children exploited in Paris are the product of this process.*

*In the middle of these neighbourhoods composed of different Roma groups, the Pletosi, badly perceived by the other Roma because of their recent settlement, turned in on their group and developed specific community practices. The marriages became more and more precocious (as of 8 years of age), less and less girls attended school (including primary school) and the traditional customary court named Stabor<sup>10</sup> imposed itself as the central institution for regulating the social life among families. On an economic level, as most families were unemployed, they became dependant on social aids.*

*The arrival of Pletosi in Constanta is recent. Families of Pletosi arrived here during the '90s. According to our interviews, their arrival is a consequence of a Stabor decision, which, in order to end frequent arguments between some families in Braila, disposed that some of them leave the city. These families then proceeded to settle in Constanta, more prosperous than Braila. Experiencing difficulties in making themselves accepted by the other Roma, they were forced to spread around three neighbourhoods, at the margins of the city: Medeea, Palas and Bratianu.*

### e) Migration and occurrence of exploitation situations

i) To Constanta

*Constanta is the 5th richest city of the country (with more than 300 000 inhabitants) and the main harbour city of Romania. This situation explains the long presence of a prostitution industry in the city. Considering the development of tourism, this industry continued to flourish. It is important to also mention the settlement of an American military base in the area. Currently, according to the associations contacted and the police unit fighting THB, sexual exploitation affects mainly minor young girls, recruited using the so called lover boy technique. Prostitution takes place almost openly through the numerous massage salons present in the city or through explicit ads in a local online magazine.*

*According to our interviews, the group of Pletosi kept away from sexual exploitation networks linking to Western Europe. Upon their arrival in Constanta, during the '90s, some of the Pletosi families developed economic strategies based on young children begging and more rarely theft. Currently this functioning is still in place especially during the touristic season in Mamaia<sup>11</sup> and Constanta. Children aged 4 to 8 are generally supervised by their mother who makes sure they bring in money by approaching passers-by.*

*Concerning the migration to Western Europe, this happens especially as of 2002<sup>12</sup>, when certain Pletosi families tried their luck in Italy (Torino, Milan, and Florence). After several years on the spot, some of them understood the financial benefit of using minors for pickpocket activities. In order to circumvent the police and the justice system, they developed strategies preventing the identification of children. The families probably took inspiration from other Roma<sup>13</sup> groups who had been present in Italy for a longer period of time.*

ii) To Braila

*Even if relatively important, the city of Braila (180 000 inhabitants) never re-*

*covered from the industrial decline of the '90s. The first migration in search of low skilled labour started at the end of the '90s towards Spain, Italy, Portugal, Greece and Cyprus essentially in the agriculture and construction sectors. Only as of 2007, once with Romania's entry in the European Union, migration intensified and extended to more poor families of Roma and non-Roma. Young girls, were then recruited by lover boys in order to be sexually exploited in Italy and Spain and then in France and the United Kingdom.*

*For the Pletosi families, migration starts primarily in 2007 to Italy, Spain, Greece and Portugal. Just like in Constanta, some families resorted to children exploitation through theft and begging activities.*

**No matter what the city of origin, no situation of sexual exploitation has been registered among the Pletosi communities. The people we interviewed for the research explained the situation by the very strict control rules of the group on the sexuality of young girls. If a family was found to prostitute their daughter in law, the Stabor would condemn immediately this practice. This aspect does not rule out, at the same time, situations of sexual abuse and mistreatment encountered in the private sphere.**

iii) Arrival in France

*In France, the first exploited minors coming from these two cities showed up in 2009. If it is difficult to know the precise reasons for the arrival of these groups in France, as of their arrival, most of the boys and girls were used for theft of mobile phones (especially iPhones) on the terraces of Parisian cafes. Function of the family and the status of the minor (child, daughter-in-law etc.), the pressure to steal a certain number of mobiles each day or the ill treatment inflicted was different. Few of the minors present in Paris seem to attend school. From a physical point of view, certain children are in poor health and complain regularly about physical violence inflicted by adults. Since their arrival in 2009, the minors travel regularly between Roma-*

*nia, Italy and Spain where a proportion of their family seems to live.*

### f) Community practice around customary marriage

Several sources, close to the community, explained to us that girls from the Pletosi group are perceived, as of birth, as main assets of the family. This may explain the strict control inflicted on them from a very early age. The symbolical and material value of the girl becomes reality at the time of marriage.

In the tsigane or gipsy societies of Eastern Europe, the ritual of marriage takes on the local traditions present in the Balkans. One can encounter:

- marriage for a dowry,
- the system of counter-dowry where the bride is exchanged symbolically for goods or money,
- mixed systems where there is a dowry from the bride (the equivalent of the wedding trousseau) and a counter-dowry from the groom (for example, money and jewellery),
- theft of the bride where the marriage is celebrated when the two partners, temporarily missing, come back to officialise their reunion, after having had a sexual relationship.

In the communities of Pletosi the last three scenarios are quite common. The theft of the bride is rarer because of the risks for the young girl. In fact, in case of difficulties with her husband, her return to the family would be compromised. Nevertheless, this scenario offers an acceptable loophole in the eyes of the community to the teenagers rejecting an arranged marriage.

In the Pletosi communities of Braila and Constanta, the negotiations for the customary marriage can begin as soon as children are 7 years old. The parents agree on the future unions between families, who are, in general, of equivalent social status. If a girl is promised to an in-law family, and the word of her



father is not kept, the Stabor (traditional court) meets and important sums of money must be paid as compensation by the family of the young girl. The night of the marriage, a chastity control is performed in front of the women in the community through the so called “nightdress” ceremony during the young couple’s intercourse. If the girl is not virgin, the reputation of her family is tarnished, and the young girl risks to be repudiated by the in-law family. The Stabor will be convened to decide on the financial consequences resulting from cancelling the wedding. These different aspects explain the strong control on the young girls since their birth and their quasi-absence from school. They also explain the pressures endured by the young minors to conform to community customs and to not trouble their families.

The marriage is an occasion for the payment of a counter-dowry, which takes the form of a sum of money, from the groom’s family to the bride’s family. Once married, the young girl is considered to belong to the new in-law family. She must obey all members of her new family. The mother-in-law will be in charge of her education.

#### g) The number of children exploited and functioning of the exploitation

##### i) Recruitment, Structuring and Number of children at risk

*The recruitment develops through a family base inside the Pletosi group, in a fishpond of families participating, to different degrees, to the exploitation of their children. It is difficult to quantify precisely their number. Taking into account the children encountered in Paris by the Police and the associations between 2009 and 2014, between 30 and 50 families may be involved. This represents an estimated number of 150 to 250 exploited children or at risk of exploitation. Some alliances formed between families from Braila and Constanta because of their kinship. The group does not have a hierarchy structure. The influence of the Bulibasa (community leaders) is fading. Nevertheless, even if some families have more influence or power than others,*

*each family retains its independency. The observation on the ground revealed that young girls and especially daughters-in-law are among the most exploited.*

*As explained in the preceding paragraph, the young girls belonging to the Pletosi group are, from a very early age, submitted and controlled by their parents and by their in-law parents. This situation makes them more vulnerable.*

##### ii) Initiation of girls

*During our interviews with the victims, it was revealed that many of the girls exploited abroad had been already exploited back in Romania in their native city through begging activities, as soon as they are 4 years old. In Braila, the little girls are begging at the exits of supermarkets under the control of their mother or of another member of the family. In Constanta, they beg at crossing stops or in the touristic seaside resorts of the Black Sea. Some of them are initiated to stealing in Romania when they become 7-8 years old, however, for most of them, their “career” as a thief starts abroad (Italy, Spain, France) when they are 9-10 years old. During this time, the young girl internalizes her role which consists of bringing, every day, money to her family and then to her in-law family.*

##### iii) Exploitation of daughters-in-law and psychological hold

*In order to force the daughters-in-law to steal mobile phones on the Parisian terraces, the community rules around marriage lay the ground for imposing a psychological hold on them. However, unlike in the traditional customary marriage, the profitability of the young girl is a preponderant criterion in the choice of the bride. The dowry loses its symbolic value and becomes a “price of the bride”, sometimes as high as 10,000 euro. Once the marriage is celebrated, the in-law family converts symbolically the money paid at the marriage ceremony into a debt the daughter-in-law must pay back through her stealing activities. When the young girl is not profitable enough or decides to return to her family, she is in danger of suffering physical retaliation. Her family may be condemned*

*by the Stabor to pay back some of the dowry received. The strategy used for getting hold of the girls is a mix between the use of physical violence and of community practices perverted by money.*

*The financial transaction having as object most of the daughters-in-law on the occasion of the marriage increases the pressure on the victims. The in-law families demand from daughters-in-law a fast “return on investment”. If before the marriage the girls must steal, for their parents, 1 or 2 phones each day, after marriage they must be more “profitable”. As investigations revealed, in Paris, certain daughters-in-law were threatened with mistreatment by their new families to steal up to 9 phones per day.*

##### iv) The boys position

*If there are a lot of boys in the group used for stealing mobile phones, the pressures imposed on them are not as high as those imposed on the girls. In general, they are more independent and are allowed to attend school in Romania. During our research, we could determine that the majority of boys exploited in France had attended school before another voyage abroad. Some of them had been enrolled in the education programme a doua sansa<sup>14</sup>, which allows them a faster educational catch up. In Paris, some of them help or survey their wives with phone stealing, while others take part, together with their elders, in burglary activities. The most worrisome situations are those of boys coming from violent families. Their profile is more similar to that of the beaten children, for whom each failure is an occasion for violence. Furthermore, after cross-checking between France and Romania, these minors would be entrusted with their uncles and aunts for stealing. They are in charge of regularly sending money to their families. The degree of constraint on the boys and the demands for “profitability” imposed by their family and the family members to whom they are entrusted makes their situation similar to the enslavement situation of the girls.*

#### h) Using the system’s failures to prevent identification

By the years, the Pletosi families exploiting minors set up a system that makes difficult the identification and protection of children. From the field research and the interviews conducted, the following strategies are being used.

##### i. Failing to register the births

*In Braila as well as in Constanta, the mediators and the social assistants we contacted have indicated to us that certain children have no civil status because their births had never been registered by their parents. If such situations occur mainly because of the degradation of social conditions in the Roma neighbourhoods, the families exploiting their children abroad take advantage of these institutional failures in order to prevent any identification. The case of Aurora<sup>15</sup>, known in Paris for her stealing activities and temporarily under the monitoring of the social assistance service, illustrates this situation.*

##### ii. Aliases

*In order to deceive the justice and police services, the minors use aliases (fake names) when they are stopped. This old practice, used by all criminal groups, has been affected by the work of the Romanian liaison police officers who travel to Paris in the police stations to identify the minors arrested. In order to complicate their work and other methods used by other police in Europe (Italy, Spain, and Germany), forging identification documents became more and more common.*

##### iii. Fake filiations and cloning identity

*From what we know, it is probable that once in France, the minors receive fake identity documents forged on the spot. This goes from the birth certificate, very easy to forge, to fake Romanian identity cards that are sold at a price around 200 euros. After Romania’s entry into the European Union, this commerce is expanding because Romanian documents give the right to free circulation and settlement all over the EU.*

*For the minors exploited, the documents used serve to establish fake filiations. The daughter-in-law is often related to the in-law family as if it was her biological family. Certain children, most of the times not recorded at birth, are given identities of children who live in Romania (many of them in orphanages). The choice of the identity is made function of the country’s legislation, legal practices and investigation techniques. The forgery is operated in relation to name, surname, age of the child, filiations etc.*

##### iv. Regular children movement in other Western European countries.

*The minors used in Paris for phone theft do not reside only in France. They travel regularly between Romania and France. They also run activities in other destination countries such as Italy and Spain where some of the family has already settled for a long time. As of 2011, children are sent to Germany for similar theft practices. Some of the children have mentioned Scandinavian countries, but this information has not been cross-checked.*

*The minors’ regular movement complicates the investigation work and the monitoring work of the associations. The identity documents and the aliases used are not always the same from one country to another, which makes it even more difficult to follow these children across Europe.*

#### i) Factors determining minors to ask for protection

It was possible to protect several minors from the Pletosi groups, which was not the case with other groups using minors in France for committing crimes. Most of the time, it is the children themselves who communicate to educators or to the BPM (Child Protection Police) their desire to break up with the harshness of their living conditions.

Out of the 9 children placements mapped out in France by the research, 4 youths are still protected (3 girls and 1 boy), 2 have been taken back by the family, 1 lasted for several months, 2 ran away as soon as they arrived to the children residence

centre.

If our sample is too narrow in order to draw a typology, we could however identify the main factors mentioned by the minors that determined them to ask for protection:

- mistreatment,
- low level of personal benefits (the children are paid too little for the theft, some have explained they had to resell the phones themselves in order to gain some pocket money, without informing the families or the in-laws),
- lack of communication with the child: the daughters in-law have no possibility to raise their children; most of the time, the child is entrusted to relatives in Romania;
- meeting a partner: several young girls who married very early fell in love with other boys who pushes them to break up with their husbands and so with their in-law families in order to live a teenager’s life.

The stress factors are multiple:

- a high quantity of stolen mobile phones demanded from them,
- the absence of perspective within the organisation,
- the lack of opportunities to meet someone else, which would help victims overcome their loyalty conflicts.

These factors are triggering events and so initiatives for the protection of these minors must be based on them. For the investigators, what distinguishes this group from others is the absence of parental affection towards the minors exploited. The children are seen only as “funds providers” without being associated to the social prestige feeling shared by the other family members because of the money accumulated.

Because of the gaps mentioned in the minors’ protection system, the minors who could benefit of protection were determined to get out alone and were closely monitored by the investigators because of the information they provided on the group.

Speaking of the other three groups mentioned, despite several attempts during po

lice operations, no minor was able to get protection in a sustainable manner. The main causes of these failures are mentioned in the section 2) on the malfunctions.

Finally, because of the children's movement from one country to another, in the absence of a database at European level recording minors victims, these teenagers are sentenced to be re-exploited (sometimes by the same families) all over Europe, until they reach their majority age. The experience shows that, as soon as a group is investigated and investigations lead to arrests, the group will no longer act, for a certain period of time, in the country where it operated. The minors are transferred from one country to another for stealing activities. The minors are at first considered offenders, for the duration of the investigation, until it is proved that in reality they are exploited, which can take several years.

#### 4) ANTI-TRAFFICKING POLICIES WITH A SPECIFIC FOCUS ON FORCED CRIMINAL ACTIVITIES AND MINORS

Trafficking for forced criminality and forced begging is increasingly being recognized as an issue of concern in France. Cases have been reported of trafficked persons, both children and adults, forced to undertake a wide range of criminal activities, including metal theft, ATM theft, pickpocketing, bag-snatching, shoplifting, forced sham marriage, sexual exploitation, smuggling cigarettes, being made to apply for benefits, drug offences, counterfeit goods, burglary, forced begging.

In France the minor victims are more presents in some type of exploitation. They are more often victims of forced begging, domestic servitude, forced criminal activities and sexual exploitation.

Anti-trafficking Policies targeting the minor victims of exploitation do not exist in France. The protection is considered in general, it is the same for each child in danger. The best interest of the child must be considered in every steps of the protection. And in order to protect each child in danger two types of protection are possible. Recently child protection has been reformed in order to improve the notification

and the identification of children in danger.

#### a) Organization of child protection in France

The reform of child protection in 2007 confirms the paradigm announced by the children rights international convention which places the best interest of the child in order to take care of their needs with the respect of their rights in the decision making.

The article 3 of the convention is included in the article L. 1112-4 Social Action and Family Code. The individual care and the inscription in a long term project allow to place the child at the centre of the care, and to associate him in the decision making.

Child protection applies for all the children in danger or with the risk to be on the French territory whatever the nationality. The isolated foreign minors can be protected until their eighteen birthday. In these situations, determine the age is essential but some associations denounce the methods as imprecise and intrusive (wrist radiography exam).

##### i) The role of the service receiving alarming information

The law of the 5th March 2007 has created several measures in order to improve the identification of the children in danger. In each French department (local authority) a service receiving alarming information has been created. The objective is to serve as an intermediary and to evaluate the situations case by case. It will permit to avoid the blockage of the services like the public prosecutor for instance with too many reports. The data centralization allows to rationalize the system and to increase the quality work of the child protection services.

The new article L. 226-3 of the Social Action and Family Code issued by the law of the 5th March 2007 defined the role of the department council president: "The president of the department council is in charge of the collect, process and evaluation, at any time and whatever the origin of the preoccupied information relates to the minors in danger or with

the risk to be."

The president is also responsible for the administrative protection of the minors and also for the different services as the child welfare service and the maternal and infant protection.

##### ii) Administrative protection

On the field, the administrative protection for children in danger is carried out by the local child welfare services. Different actions are proposed to the families and to the children: the setting of a reinforced family support, a preventive educative action, or an adapted measure to the situation within the child administrative protection (educative action at the household or temporary accommodation of one or several children). If the gravity of the facts justified it, or when the family is not cooperative, a measure of education can be asked to the judicial authorities.

##### iii) Judicial protection

The judicial protection intervenes if the health, the security, the morality of the child is strongly compromised and if the parents refuse to cooperate with the child welfare services within the administrative protection. The juvenile judge can be seized by the public prosecutor, the minor or the family. He can do it himself but it is exceptional.

The judge can decide:

- judicial measure as educative investigations
- educative action measure in open custody
- placement measure with another family member, with a trustworthy person, in an institution or with the child welfare service
- Dismissal of the case if the magistrate thinks that the situation of danger which justified the seizing is not characterized anymore.

If the minor has committed a penal infraction and is charged by the police services, the public prosecutor is immediately informed and if he decides to prosecute, he transmits the file to the juvenile court judge or the instruction judge for the minors.

The judge can take temporary measures: social investigations, conditional release (the minor can live with his family but he is followed by an educator), judicial control (interdictions and obligations are decided by the judge), placement of the minors with a person trustworthy or in an educative shelter.

A judicial protection measure applies to the minors whatever their age. It is decided by the juvenile court judge, the juvenile court, and the "cour d'assises des mineurs" (the minor criminal court) (Art. 8, 16 bis, 28 and 31 of the ruling n. 45-174 Second February 1945).

The juvenile court or the "Cour d'Assises" (minor criminal court) can pronounce educative measures (official reprimand, parole, judicial protection, and placement), educative sanctions (confiscation of the object used for the offence, interdiction to go in some place, or to meet some persons), repressive measures (fine or suspended fine, community work, and if the minors is more than 16 years old, jail or suspended jail sentence if the minors is more than 13 years old. The sentences cannot be superior to half of the sentence for an adult and cannot exceed 5 years. In April 2015, 756 minors were detained in jail.





iv) MIPROF proposals on minors victims  
Concerning the minors the MIPROF has the objective to adapt for the best the welcome and the protection of minor victims of human trafficking. They are trying to create some specialized measures for the minor victims of human trafficking (all forms: sexual exploitation, forced criminal activities...)

Two specific measures have been established:

**Measure 10: Ensure a specialised support for the minor victims of human trafficking within child protection**

The objective is to improve the broadcasting of the information and also the coordination among actors within a French department (French administration level) for instance the regional authorities, the public prosecutor, the judicial youth protection service, the child welfare service, the inquiries service and the associations.

The creation of a European platform for the protection of the children exploited is planned: the object of this platform is to improve information sharing on the identifications of minors and also on the measures of protection that they can benefit from, in order to ensure a better coherence of their socio-educational follow up in the European countries.

It shall also enable to mutualize the good practices. These information exchanges should be between magistrates and police services in liaison with Europol, and in the other hand between the child welfare services of member states with the cooperation of the associations.

**Measure 11: Define an adapted protection for the minors who are at the same time authors and victims**

In accordance with the European engagements the minors forced to commit criminal activities must benefit an adapted housing in order to keep them out of reach from the exploiters and they must not be considered as criminals but as victims. For that purpose, the creation of an experimental shelter offering to the minor authors-victims a safe place is planned.

**5) PRACTICES / OPERATIONAL PROCEDURES WITH A SPECIFIC FOCUS ON FORCED CRIMINAL ACTIVITIES AND ROMA MINORS**

**a) Practices common to all forms of human trafficking**

According to the international and European conventions signed by France the victims are entitled to:

- Appropriate and secure accommodation,
- Psychological assistance,
- Material assistance,
- Access to medical treatment,
- Translation and interpretation services,
- Counselling and information,
- Assistance during criminal proceedings,
- Access to the labour market, training.

In France, assistance and support for a victim must not be made conditional on the victim's willingness to cooperate with law enforcement in a criminal investigation or trial. But in the reality it is not well applied. You can find below some examples of measures set in place in order to protect the victims:

- 30-Day Reflection and Recovery Period
- Temporary residence permit (6 month renewable)
- Temporary allowance (Allocation temporaire d'attente)
- Shelter placement
- Relocation ("Dispositif Ac.Sé")
- Social, medical and psychological supports
- Compensation.

The professionals in contact with the victims must be trained in order to recognize the indicators and to acknowledge the rights attached to the victim's status. They must be identified as victims and not as irregular migrants or criminals. Common procedures and identification criteria are essential in order to apply the same treatment for everyone. The 30-Day Reflection and Recovery Period must be automatic in order to provide human trafficking victims with the time necessary to make an informed decision concerning their coo-

peration with law enforcement. They must be informed of their rights in a language which they can understand. Cultural mediation is essential in order to create a link of trust with the victims.

During this period, they cannot be expelled from the country. They can return in their country of origin if it is their wish. For instance, the IOM (project CARE) offers financial assistance and training in order to find employment, or create a business in the country of origin. The project ends in December 2015 and only 130 persons including 10 minors will be assisted during this period.

If they want to stay in France a temporary residence permit (6 months) is granted to victims who have filed a complaint or testified against the defendant charged with human trafficking or pimping in a judicial proceeding. If they are in danger locally they can be relocate in another town with the "dispositif Ac.Sé".

The fact to fill a complaint or not, it does not prevent a victim of human trafficking to claim asylum (international protection) in a few specific cases:

- The trafficking victim is in a foreign country, has escaped from her or his traffickers, and subsequently seeks protection from the country to which she or he has been brought;
- The trafficking victim was victimized in her or his own country and has escaped from her or his traffickers and has fled to a foreign country in order to obtain international protection;
- The person concerned is not yet a victim of human trafficking, but has left her or his country because of a well-founded fear of becoming a trafficking victim.

There is a problem when the victim came from a European country; indeed she is not entitled to receive a residence permit with the temporary allowance attached. The Article L. 316-1 of the Code of Entry and Residency of Aliens and the Right to Asylum says: "a temporary residence permit under the category "private and family life" could be granted to the alien who filed a complaint"). Victims of human trafficking with the residency permit defined in

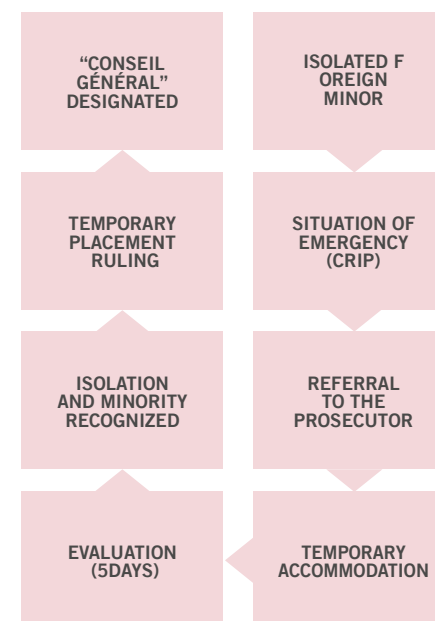
Article L. 316-1 of CESEDA are entitled to l'Allocation temporaire d'Attente (ATA), a temporary allowance of 335,10€ (art. R. 351-7 of the Labour Code).

Different supports are provided by a wide range of actors in order to assist the persons towards accommodation (shelters), health care (universal health Insurance coverage), training (French lessons), employment, legal assistance.

Victims of human trafficking who have been harmed can get full compensation for their injuries resulting from the exploitation, before the compensation commission of crime victims (CIVI) attached to each high Court, which will allocate them compensation, under the conditions of Article 706-3 of the Code of criminal Procedure. The legal proceeding can last several years and if the criminals are convicted the victims can receive a residence card.

As we saw previously the system for the minors is different. The protection is seen as a general protection for all the minors in danger with a wide range of supports (material, educational and psychological in addition to accommodation). For unaccompanied foreign minors social services must anticipate and prepare for the regularization of the administrative situation.

**Specific procedure in order to protect the unaccompanied minors:**



But the minors forced to commit criminal activities have specific needs, and the educators have to deal with issues they do not usually encounter in their practices. In order to provide the best support some structures are trying to improve, innovate in their daily practices. But the efforts are unequal and depend of the will of the directors and the educators.

**b) Example of practices set in place by the educative unit attached to Paris's juvenile court:**

**Health**

- Systematic opening of the rights to Universal Health Insurance Coverage
- Education to corporal hygiene and diseases prevention (tuberculosis, scabies...)
- Develop a partnership with an hospital and with the Roma coordination of Doctors of the World (pregnancy follow-up, various care)

**Professional insertion**

- French lessons organized by the NGO Hors La Rue (for the Romanian minors) or by the STEI (Territorial Service of Education and Integration)
- Short professional trainings
- Internships with the STEI

**Accommodation**

- Sheltering measures set in place by the NGO Hors La Rue at the request of the minor
- SIAO (orientation mechanism toward accommodation) measures for the young Europeans after eighteen years old (absence of solution for the people outside the European Union)

**Legal**

- o Lawyer
  - Files followed by a lawyer of the Juvenile court's minor antenna
- o Interpreter
  - Presence of an interpreter for the hearings of the 25th chamber of the juvenile court
- o Institutional links with the consulate authorities

**Pedagogical Work**

- Work with the mother tongue of the mi-

nor and in accordance with his cultural references

- Ask the question of the real identity prior to work
- Ensure an immediate or a very fast support
- Work with the association Hors La Rue (for Roma minors)
- Partnerships with STEI
- Follow up in detention area with the judicial youth protection service
- Support the parents if they are identified to obtain the right to visit their children.
- Visits of the detained minors followed or not, by the educative unit once a week
- Work on a realistic project after the end of the educative measure.

**PERSPECTIVES:** guarantee a real long term work with two Romanian speakers, two Arab speakers and a psychologist. It is a multi-agency approach; the educative unit has encompassed in this action many different stakeholders. NGOs and public administrations are associates in order to prevent any failure.

## 6) MALFUNCTIONS OF THE MINOR VICTIMS PROTECTION

### a) Lack of statistics in order to establish a precise picture

It is difficult to have a precise picture about human trafficking in France. The priorities of the French government are not reflecting the reality on the field. Indeed France concentrated its efforts on the fight against sexual exploitation to the detriment of the others forms of human trafficking. The statistics collected at the central level and sent to the Greta in 2012 concerned only the victims of sexual exploitation and included the victims of pimping. This lack of data on domestic exploitation is problematic but can be explained by the fact that these situations are taking place among the household, in the private sphere.

Nevertheless we cannot use this argument for the persons forced to beg or to commit criminal activities. The ones forced to beg are in the streets, they are visible. For the ones forced to commit criminal activities, they are often brought before the judge without never been considered as a victim despite of the presence of many indicators of restraints and investigation in progress.

Minors in situation of exploitation are more and more identified by the professionals and the associations. Nevertheless there is none genuine project of quantification of this phenomenon and when there is one it is often caution to prejudices and preconceptions because of a will of politicians for a more radical rhetoric that can be stigmatizing for some groups. Other complication, it is more difficult to collect data because the minors forced to commit criminal activities are often considered as author and not as victim by the police services.

The data are incompletes and they are not sent every year to the national and European instances. The next chart combines the victims identified by the police services and the associations in France.

YEAR	BOYS	GIRLS	MAN	WOMAN	TOTAL	SEXUAL EXPLOITATION
2010	9	31	14	672	726	100%
2011	6	19	9	620	654	100%
2012	4	9	5	733	751	100%

(Source Eurostat 2014)

Between 2010 and 2012, 519 persons have received assistance and a residence permit. Only 24 % of the persons identified as victims of human trafficking have received a residence permit during the 3 years. The data make impossible to draw a precise picture of the situation in France. It is unidimensional; only focusing on sexual exploitation without taking into account the other forms of exploitation like forced labour, domestic servitude, forced begging, cases reported by the associations and the media agencies. Nevertheless these figures are not being the object of centralization and communication towards the European instances in charge of the report on human trafficking.

### b) Lack of training for educative professionals and magistrates

The training for the professionals about identification of human trafficking victims is insufficient. There is a huge difference among French departments. For instance, for the judicial youth protection services the training is at the discretion of the departmental headquarters. Some services are following trainings on prostitution for instance the judicial youth protection service in Toulouse. The preparation is not the same for everyone and depends of the quality of the training sessions set in place by the associations.

We also find these disparities in the French prefectures, none of them have the same interpretation of the law (L316-1 for the victims of human trafficking) and they sometimes provide the residence permit in an arbitrary manner. The lack of common referential for all the professionals in contact with situations of human trafficking increases the different treatment and the

unequal application of the rights of the victims like the delay of 30 days for reflection.

In a general way we can observe a lack of resources and infrastructures and a saturation of the services. We can find again the same pattern indeed there are strong differences of treatments depending of the French department. If the department of Iles de France is better equipped in order to welcome isolated foreign minors, it is often overcrowded. The isolated foreign minors are orientated in other regions without taking into consideration their best interest. This practice is unequal because the French departments do not have the same level of infrastructures and resources in order to take care of these minors in situation of vulnerability and danger. Besides they do not benefit of the same rights as the French children.

The support made by child welfare services is problematic for the isolated foreign minors; victims or not of exploitation. The educative staff is not trained in order to deal with these situations that are not in the scheme of parents-children relations improvement. The staff of the medico-social sector is particular under trained about the identification of the children in danger.

The topic of the runaway can be approached by the lack of training in the shelters run by child welfare services or by the judicial youth protection services. The children victims of exploitation have particular needs and preoccupations, the support should be adapted in consequence. The challenging topics linked to the trauma and to the harm undergone like psychological problems, gap with reality, and loss of identity are too much complicated. Indeed the staff in charge of the children in danger is not able to assume this kind of care with the current resources.

If the support is vital in order to avoid run away from the shelters, there is also an obligation to prevent the exploiters from reaching the children in the facilities.

### c) Absence of protected places and an organized relocation system.

The national plan 2014 – 2016 for the fight against human trafficking has included in the measure 11 the creation of se-

cured shelter. The project is in discussion during the first trimester of 2015. Nevertheless the measure has been put on hold because of the lack of durable funding. Besides, the creation of one shelter is not enough. The shelter is a temporary measure adapted for particular cases. If there is not a larger system in relation with other adapted shelters in the whole national territory in order to guarantee a geographic relocation and a rupture with the exploiters, the protection of the victims will not be consider at short term for a limited number of children. Currently the absence of implication from the child welfare services on this topic is not permitting a satisfying protection. Most of the victims placed in the shelters run away or are took away by the exploiters.

There is a need for a multi-disciplinary and a multi-actor work in order to prevent the strategies of the exploiters and to allow the children to feel safe and supported. Some places like the slums are not receiving the visits of the staff from the child welfare services. There is none report of children in danger. Some groups use these places in order to hide the children victims of human trafficking.

### d) Failure of the identification mechanism and lack of an access to a status

The obligation to commit a criminal activity is a topic imposing a multidisciplinary work that is difficult to set in place. On these questions many amalgams are present in the practices of the professionals. The shortcuts among: immigration, asylum, criminality at the detriment of the children in danger are frequents. The debate around minority is essential because it gives rights to specific supports and protections written in the national legislation and in the children rights international convention. The measures in order to determine the age as the radiography of the wrist are criticized by the associations and the medical ethical comity because the methods are considered intrusive but also not precise with a margin of more or less 18 months.

If there is a debate about the age deter-

mination it is because the minor is seen by the administration services firstly as a foreigner and not as a child who need protection. It is once the questions of the entry on the territory, age, exploitation conditions are settled, and only then the child can be protected by the child welfare service.

More they are close to 18 years old less the minors have a chance of being supported by the child welfare service. We observe that between 16 and 18 years old the minors are orientated towards sheltering structures (hotel, etc.) without benefiting professional training. It will be difficult at 18 years old to obtain a residence permit or to find a place in the society.

The foreign isolated minor does not own a proper status. The minor status does not engage an adapted protection and assistance for the specifics needs especially if the minor has been exploited. Besides, there is none status that allows the transition after the end of the child protection toward the insertion of these young adults. The end of the support can be brutal.

If the follow up can be problematic, the identification of the minors in danger of exploitation can be also very difficult. If we take the example of the judicial youth protection service in charge of the investigations for the tribunal or in charge of the social inquiries we can remark that because of the lack of means these services prioritize.

Indeed since the terrorist attacks of January 2015 all the resources of the judicial youth protection services are affected in the fight against jihadism and the sectary derives.

The studies on the minor victims of exploitation should allow to measure and quantify the phenomenon for an inscription at the political agenda. We need to avoid the repressive strategies and only in reaction with the criminal peaks without identify and protect beforehand the minors forced to commit criminal activities.

### e) Absence of minor victims identification and lack of prosecution against the authors

At the opposite of other European



## NATIONAL RESEARCHES ON FORCED CRIMINAL ACTIVITIES AS A NEW FORM OF EXPLOITATION IN HUMAN TRAFFICKING

### 2) HUNGARY<sup>16</sup>

#### 1. GENERAL FRAMEWORK ON TRAFFICKING

##### a) Definition

Trafficking of human beings, amongst that of drugs and weapons, is one of the most thriving and least risky fields of organized crime in Hungary. Since it is difficult to provide evidence and only light sanctions exist, vulnerable victims are often criminalized. Perpetrators frequently force victims to commit illegal activities, keep them in abnormal living conditions or, in case of migration, make them believe that their residence status is an irregular one. Therefore victims are under pressure, traumatized and quickly lose their autonomy and power to make decisions. Most of the time, at the end of the judicial procedures a case concerning human trafficking is not supported by evidence, and perpetrators, if convicted at all, receive court penalties for crimes other than human trafficking. Although a person affected by trafficking would still be considered a victim by the court even if she or he does not testify and no direct legal action is taken against the traffickers, **the lack of willingness of victims to testify seriously hinders the court procedure.**

Victims are constantly under pressure and frightened of being abused and threatened by traffickers. In case of children, most often, they join or captured in a special closed community, called “gallery” that keeps them very isolated and forms them a micro social milieu to live in and keep their own rules.

The Criminal Code provides more details of stronger penalties for the crime of human trafficking. Exploitation was added to the new regulation, since it had not been part of the previous Arti-

cle concerning Human Trafficking. This first development was essential for the effective improvement of combating human trafficking in Hungary.

#### Trafficking in Human Beings (Criminal Code of Hungary 2012) Section 192

(1) Any person who:

- a) sells, purchases, exchanges, or transfers or receives another person as consideration; or
- b) transports, harbors, shelters or recruits another person for the purposes referred to in Paragraph

a) including transfer of control over such person; is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who - for the purpose of exploitation - sells, purchases, exchanges, supplies, receives, recruits, transports, harbors or shelters another person, including transfer of control over such person, is punishable by imprisonment between one to five years.

(8) In the application of this Section, exploitation shall mean the  
The penalty shall be imprisonment between two, in some cases, to fifteen years if trafficking in human beings is committed.

There are more and more Hungarian victims of trafficking migrating to Western European countries. Labour exploitation is rising; however, the vast majority of identified victims is still represented in the sex industry. The number of unreported cases is a severe problem in cases of men in forced labour and labour exploitation. Forced criminal activity is not considered as a form of trafficking, it only occurs as an associate activity while one is being exploited as a servant.

In Hungary the group most at risk of being trafficked is those who live and grow up in foster homes, as well as those who live in extreme poverty in different regions of the country. Poor living conditions, a low level of education and the lack of a promising future are risk factors for becoming a victim of trafficking. Having a dysfunctional family

background is common among the victims as well.

#### b) Background of labour exploitation in Hungary

The effectiveness of combating human trafficking depends very much on the improvement of the living conditions of those living in extreme poverty. Providing information, raising awareness and offering proper assistance for potential victims is essential. Furthermore, Hungary has to work on changing the attitude of society, even including those working with victims and the authorities responsible for detecting and identifying presumed victims.

#### c) Foreigners and Third Country Nationals

Hungary is first of all a country of origin and transit. Authorities hardly ever detect and identify victims who are third country nationals or foreigners. NGOs, providing assistance for victims of human trafficking, only take care of Hungarian cases. Even if organizations identified foreign victims, they would not be prepared to provide proper assistance. Third country nationals are all either referred to homes for asylum-seekers, or in cases of criminal issues or rejected asylum-seekers, placed in detention prior to deportation or detention.

According to the victim support services of the Office of Administration of Justice, there were no cases of third country nationals as victims of trafficking in the last couple of years.

Hungary is not considered as a country of destination, there is no data available in cases of foreign victims. Despite the existence of the legal instrument, no residence permit on humanitarian grounds has yet been granted to victims of trafficking with a nationality of a third country.

#### d) Hungarian victims

There are many cases of victims of human trafficking within Hungary, as well as those who return to the country after having experienced forced labour abro-

ad. Passports or personal documents of victims, even Hungarians living in the country, are often taken away or destroyed by traffickers.

Both locally trafficked and returning victims need to have the benefit of assistance measures and protections since they are vulnerable.

The reflection period provided is independent of proceedings against the traffickers.

Service providers have to work with severely traumatized victims. They need long term special care to stabilize their mental health issues associated with the traffickers’ physical and emotional abuse. The aim of the long term assistance is to reintegrate victims into society and to provide them with skills, so they are able to live independently.

#### e) Government Involvement

The mechanism ensures that the service provider is entitled to assist the presumed victims of trafficking. It involves the Office of Justice and Administration Victim Support Service, which operates nationwide, the National Family and Socio-political Institute under the Ministry of Human Resources, the 24 hours hotline at the National Crisis Management and the Information Telephone Services (OKIT). Furthermore, employees of the Ministry of Foreign Affairs assist victims abroad. Presumed victims of forced labour have been requesting travel support more so that victims of sexual exploitation.

Lately, there were some cases of repatriated victims of forced labour, exploited in England or Belgium, who were assisted by the consulates, IOM and NGOs.

In Hungary, the cooperation among different organizations is stated in the Memorandum of Understanding (MoU); however, the National Referral Mechanism and other governmental agencies do not support service providers financially. Therefore the assistance measures and services are often deficient and unsatisfying.

#### f) National Legal Background

The framework of government action was stated in the 2008-2012 national strategy against trafficking in human beings in the 1018/2008 (III. 26) Government decision. The European Union and the International Deputy State Secretary challenged the Hungarian government to move forward in combating human trafficking and asked them to create an anti-trafficking national action plan. The national coordination team had its first meeting in February 2009. In December 2011 the National Referral Mechanism changed its profile and invited several NGOs and civil representatives who are involved in issues concerning women and combating trafficking in human beings. The coordination mechanism has been dealing with obligated changes in legislation concerning trafficking in human beings since the EU published its Directive: 2011/36/EU of The European Parliament and of the Council of 5<sup>th</sup> April 2011 on preventing and combating trafficking in human beings and protecting its victims, replacing Council Framework Decision 2002/629/JHA. Hungary prepared the modification and ratified the new law instrument in time on 6<sup>th</sup> April 2013. The Criminal Code came into action on 1<sup>st</sup> July 2013.

On the level of the European Union, the Directive introduces minimum regulations about human trafficking, and defines crimes and sanctions. It regulates the implementation of effective prevention and victim protection.

#### Modified Criminal Code of Hungary 2012

The new legislation defining human trafficking, part of the Criminal Code, fulfils the expectations of the Palermo Protocol, the Council of Europe Convention on Action against Trafficking in Human Beings CETS No.: 197 (hereinafter: CETS No.: 197) and the Directive: 2011/36/EU. In Article 192 of the Criminal Code, exploitation was added as a new element of the crime human trafficking.

The CETS No.: 197 consists of provisions about law instruments concerning prosecution, criminal law, prevention, victim protection and support. Transposing the Directive 2011/36/EU made the

ratification of the law XVIII 2013 possible. The agreement was accepted on 16<sup>th</sup> April 2005. The aim of the agreement is the prevention and combating of human trafficking; while ensuring gender equality, protecting human rights of victims and further facilitating international cooperation in combating against human trafficking.

#### Trafficking in Human Beings Section 192

(1) Any person who:

- a) sells, purchases, exchanges, or transfers or receives another person as consideration; or
- b) transports, harbors, shelters or recruits another person for the purposes referred to in Paragraph

a) including transfer of control over such person; is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who - for the purpose of exploitation - sells, purchases, exchanges, supplies, receives, recruits, transports, harbors or shelters another person, including transfer of control over such person, is punishable by imprisonment between one to five years.

eings is committed.

#### Forced Labour Section 193

(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 one to five years. (2) The penalty shall be imprisonment between two to eight 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 eighteen years<sup>19</sup>

#### Duress Section 195

Any person who compels another person by force or by threat of force to do, or to refrain from doing, some act, and thereby causes a considerable injury of interest, is guilty of a felony punishable by imprisonment not



exceeding three years, insofar as the act did not result in a more serious criminal offense.

#### g) Victim support and compensation

Act CXXXV of 2005 (hereinafter: Ást) on supporting victims of crimes and on state mitigation of damage, came into action on 1<sup>st</sup> January 2006 and is aimed at implementing Council Directive 2004/80/EC of 29<sup>th</sup> April 2004 concerning the compensation of crime victims. Victims of trafficking can be entitled to receive victim support according to Article 1(1) of Ást. Article 9/A and Article 43(3), which came into action on 1<sup>st</sup> July 2007, and implemented sections 5 and 6 of the Council Directive 2004/81/EC. These concern the residence permit of third country nationals who are victims of trafficking or immigrated irregular and are willing to cooperate with the authorities.

#### h) Gender aspects in exploitative situations

Hungarian authorities are aware of the fact that gender is an aspect that needs to be taken into consideration when looking at different forms of coercion and exploitation, and when working with victims. While providing protection and assistance, the different natures of traumas and results of being forced to do something have to be considered in terms of gender. A vast majority of female victims were victims of sexual exploitation and there are some victims of domestic violence and slavery. Men are mainly victims of forced labour in the constructing or agricultural industry. More men have been becoming victims of forced begging and victims of domestic servitude. Elderly and retired people with low pensions are at high risk. Other groups who are at risk are unemployed persons, and people living with physical and/or mental disabilities. Children (mostly female) are mainly victims of sex trafficking and forced to commit smaller crimes. Drug addiction is very common among them.

#### i) Accommodation possibilities

Shelters for victims of trafficking are designed to host adult women since they represent 90% of the identified victims. All of them are Hungarian nationals. There are no shelters specialized for underage victims of trafficking. They are placed in children foster homes or transition homes for children. Men are placed in other facilities.

There is no data available showing whether third country nationals were provided special protection or assistance as victims.

#### j) Public policies, National Referral Mechanism, National Rapporteur

The National Referral Mechanism was established by a Memorandum of Understanding (MoU) in 2005. It involved the Ministry of Interior (MOI), the Ministry of Foreign Affairs, the International Office of Migration (IOM), Ministry of Social Affairs and Labour and the Hungarian Baptist Aid (HBAid). The Mechanism was added to an NGO coordination round table on 20 December 2011. It is a consultation working group which includes several civil members.

The Ministry of Interior is the lead agency on all trafficking issues, and the Deputy State Secretary for European Union and International Affairs is the appointed National Coordinator for THB. The Coordinator ensures the cooperation among different governmental and non-governmental organizations. It is responsible for taking steps in the fight against human trafficking on international, European and national level. The framework of government action against human trafficking was laid down for cooperating actors in Hungary by the Government Decree 1018/2008 (III.26.) on the national strategy against human trafficking for 2008-2012 which has expired on 31 December 2012. Government Decree 1351/2013 (VI. 19.) on the national strategy against human trafficking for 2013 – 2016 has been published on 19 June 2013.

Other state agencies involved in trafficking issues include the Ministry of National Resources (MNR); the Ministry of Foreign Affairs; the Crime Prevention Department of the National Po-

lice Headquarters; the National Bureau of Investigation (NNI); county police headquarters; the National Court Administration Office (OBH); the Office of the Prosecutor General; the Office of Immigration and Nationality (OIN); the Victim Support Service; and the National Crisis Management and Information Service (OKIT). Domestic THB investigations are launched and conducted by county police headquarters. Investigations are only transferred to the THB Department of the National Bureau of Investigation if the case shows elements of organized crime or has an international connection. The THB Department in the National Bureau of Investigation added two new police investigators in 2014, bringing to 14 the total number of staff. Police THB investigations are conducted under the close supervision of the prosecutors' offices.

The National Trafficking Coordinator chairs the National Coordination Mechanism (NCM), which holds sessions in every 3-4 months of the year. The NCM includes representatives of the above state agencies, IOM, the Chance for Families Foundation (an NGO operating the shelter for THB victims) and the Hungarian Baptist Aid (HBAid), and aims to coordinate the anti-trafficking measures of the various stakeholders, as well as monitor the implementation of the National Anti-Trafficking Strategy.

The work of the National Coordination Mechanism is complemented by the NGO Roundtable, which is also chaired by the National Coordinator. The roundtable is comprised of nine NGOs: Indít Public Foundation, Sex Education Foundation, Periféria Association, MONA, Women for Women Together (NANE), European Roma Rights Centre, Terres des Hommes Foundation, Kék Vonal Foundation and the Chance for Families Foundation, Hungarian Baptist Aid.

The Mechanism by itself works rudimentarily. The official and civil members cooperate with each other; however it does not provide any financial support for civil organizations in the field. Therefore, NGO's apply for international grants to be able to assist victims properly. The new 4-year strategy about

combating human trafficking supposes the improvement of the Mechanism to work more effectively. The National Referral Mechanism does not refer to third-country nationals' statuses.

#### k) Legislative framework

##### • Identification, protection of rights, and referral

The Government Decree No 354/2012. (13 December) (hereinafter: Government Decree) on the identification of victims of human trafficking came into force in 1 January 2013 in Hungary. This legal instrument tends to satisfy the provisions in the Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. The Government Decree defines the authorized official agencies, authorities and non-governmental organizations to detect and identify victims of human trafficking.

The identification procedure has to follow the Government Decree in effect since 1 January 2013. There is not much relevant experience in practice about this new regulation. There has been cooperation among the representatives of civil and governmental sectors since 2005. There had been no official indicators issued that were in use for official and non-official organizations.

In practice, those civil organizations that provide assistance to victims, have been accommodating, protecting and assisting identified Hungarian victims, trafficked in country and/or those who are repatriated Hungarian victims.

The official agencies are the following; health care services, state agencies in the field of health care, agencies providing personal care, educational institutions and agencies, the police, labour authorities, consulates, OIN, this regulation applies to Hungarian citizens and persons having the right to freedom of movement and residence within the EU.

The identification procedure is similar to men and women. The Government Decree does not distinguish genders

in identification. In practice women who are victims of sexual exploitation - which means the 90% of victims in Hungary -, or exploited in any other ways cannot be placed to shelters where there are also men. On the other hand, there are no shelter facilities available for men so far, therefore in practice, this problem has been lying with civil organizations' volunteer care. The shelters capacity which belongs to the Ministry of Human Resources (hereinafter: EMMI), and the other ones, run by HBAid are suitable to accommodate women. The HBAid has more facilities to accommodate THB victims in protected houses, those capacities depend on applied implemented international projects.

##### In case of children

According to Article 17 (2) of Act XXXI of 1997 on the protection of children and guardianship administration the authority identifying minor victims is obligated to initiate official administration procedure and notify the local child protection service about the case. In case of a child at-risk, every citizen and child advocacy non-governmental organization is entitled to notify the relevant authorities and launch a legal administration procedure. Justifiable reasons to launch a legal administration procedure when identifying a child victim are; if a child is abused, neglected, his/her condition is very poor or there are other jeopardizing factors are present. There are no shelter facilities for child victims in Hungary; they are only hosted there from age 18. Children coming from third-countries and crossing the border illegally or left unaccompanied are placed in foster homes. Third-country citizen children are placed to Károlyi, István Children Centre in Fót, Hungary, or to the Szent Ágota Child Protection Service in Hódmezővásárhely or in Ópusztaszer in case they do not wish to apply for asylum. There is no relevant data about child victims of human trafficking.

In case of third country nationals

International protection procedures are conducted by the OIN. Third-country citizens have a possibility to self-report themselves as victims; also, the OIN has been practicing non-official

identification procedures with presumed victims at the first interview. The office examines the travelling route of the asylum seekers which they used from their home country to Hungary. There are some regions and routes where they might meet traffickers.<sup>20</sup>

Most of the third-country nationals use Hungary as a transit stop. Smuggler nets transporting migrants to Europe and beyond. These persons trying to reach Western Europe cross the Schengen border or travel as far as the USA or Canada. There is no data available about victims of THB identified in these flows for the international protection procedure. If a victim is detected by the OIN, normally they do not change the procedure of an asylum seeker. There are no special facilities (protected houses/shelters) for third country national victims of THB.

The OIN issued data about the numbers of asylum seeker unaccompanied children in 2004. There is no data available about unaccompanied trafficked children victims of third country nationals arriving to Hungary. Hungary is also only a transit stop for alien children. They do not even know in which country they stopped when they are found by the competent authority.

If the application of the asylum seeker is rejected (by the asylum authority or the court) or if the applicant cancels the application during the procedure, and the asylum authority/court doesn't determine that in case of return to her/his country of origin s/he would be subjected to torture or her/his life would be endangered for other reasons, than s/he has to return to her/his home country or to a country that admits her/him.

If after rejection the person submits a new asylum application, than the Hungarian asylum authority examines (in a preliminary examination procedure) if there any facts or circumstances occurred that indicates the entitlement for international protection. In case the asylum authority considers that the new application doesn't include any new element compared to the first one, than declares it inadmissible.



## I) Identification Procedure in the Practice

The Identification Questionnaire (hereinafter: Questionnaire) in the Government Decree is used to help in the identification procedure. The Questionnaire is also a written agreement of the victim to be assisted, provided with health care or shelter placement. S/he also agrees with being officially identified as a victim of trafficking. Third-country nationals stay in international protection procedure. They receive residence permits for humanitarian purposes for the duration of the procedure and if they are victims of trafficking they have to cooperate with authorities.

Indicators for identification: according to the Questionnaire personal data is collected first, after that there are several questions to make during an interview to identify a presumed victim. It examines the victims' health condition, possibility of being a child, sign of abuse and violence, physical condition and other signs such as poor clothing. It examines the sign of restricted personal freedom, living conditions, accommodation, and number of abandoned children and working conditions.

If an eligible organization detects a Hungarian citizen or a person having the right to freedom of movement and residence within the EU who is a presumed victim of human trafficking, it interviews the person for identification. The official authority in many cases is the Police, the OKIT, the NNI and last but not least the IOM. According to the National Referral Mechanism (hereinafter: Mechanism) these actors are all entitled to refer victims to shelters. When a victim is officially identified, and the victim is able to provide a written consent, the next step is to notify the local victim supporter service. The Office of Victim Support follows regulations under Act CXXXV of Supporting the Victims of Crimes and on State Mitigation of Damage 2005 (herein after: Ást) parallel to this, if the victim has no secure accommodation, under the victim written authorization, the identification organ notifies the OKIT. The first sign of a presumed victim might occur at the Na-

tional Crisis Management and Information Telephone Services, OKIT which is a 24-hour, toll-free hot-line service and is accessible via email. One phone call lasts for 7 minutes assisted by specially educated social workers. There are about 50 calls per day and 20-25 of them are considered as real issues<sup>21</sup>. OKIT provides support for persons in different types of crisis situations, including THB victims and domestic violence. OKIT is part of the National Family and Social Policy Institute, which belongs to the Ministry of National Resources (MNR). OKIT refers presumed TIP victims to the secret shelters run by HBAid and the Chance for Families Foundation if he or she needs safe accommodation. The service of OKIT is in contact with the management of the shelters and OKIT informs the victim about the conditions and the circumstances provided by the shelters. If a victim requests accommodation in a shelter, the OKIT calls the managers of the shelters and connect them to the identified victim to organize his/her secure transportation and adaptation.

It is important to note that the Government Decree after regulating the order of accommodating a victim, it disposes of the about reintegration procedure. The expression of reintegration is essential at this point for we may see that the Regulation focuses on repatriated Hungarian citizens, which is a specific and particular remark of the country in comparison to other European countries. The mentioned civil and governmental organizations in the Mechanism, that are entitled to identify victims, almost without exceptions, they only meet Hungarian trafficked persons. They either become a victim inside the county or are taken to abroad.

Since the official identification procedure came into force 1 January 2013 according to the above mentioned decree. There is no evaluated data on its practice. There have been no official indicators for identification used by official or non-official organizations.

### m)Referral

The framework of government ac-

tion against human trafficking was laid down for cooperating actors in Hungary by Government Decree 1018/2008 (III.26.) on the national strategy against human trafficking for 2008-2012 which has expired on 31 December 2012. Government Decree 1351/2013 (VI. 19.) on the national strategy against human trafficking for 2013 – 2016 has been released on 19 June 2013.

Government Decree 1018/2008 appointed the Deputy State Secretary for European Union and International Relations of the Ministry of Interior for the anti-human trafficking coordinator of Hungary in order to take steps in combating human trafficking and create an anti-trafficking national action plan. The national coordinator had its first meeting in February 2009. In December, 2011, the NRM has changed its profile and invited several NGOs and civil representatives who are involved in women issues and in countering THB. The coordination mechanism has been dealing with obligated changes of legislation in THB for the EU published its Directive: 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. Hungary prepared the modification and the ratified the new law instrument in time on 6 April 2013. The new Criminal Code entered into force on 1 July 2013.

The Directive introduces minimum regulations on the level of European Union about the human trafficking and also defines crimes and sanctions. It regulates the implementation of effective prevention and the empowerment of victim protection.

The new legislation in the Criminal Code about defining human trafficking satisfies the expectations of the Act CII 2006 on the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime, Act XVIII of 2012 on the Council of Europe Convention on Action against Trafficking in Human Beings CETS No.: 197 (hereinafter: CETS No.: 197)

and the Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, replacing Council Framework Decision 2002/629/JHA. The Article 192 in the new Criminal Code, regulates exploitation as a new element in combating crime in human trafficking.

The CETS No.: 197 consists provisions about law instruments about prosecution, criminal law, prevention, victim protection and support. Transposing the Directive 2011/36/EU made the ratification of the **Act XVIII of 2013** possible with the Agreement, accepted on 16 May 2005. The Act XVIII of 2013 entered into force on 1 August 2013. The aim of the Agreement is the preventing and combating human trafficking, ensuring gender equality, protecting human rights of victims, further, facilitating international cooperation in fighting against human trafficking.

The members of the Mechanism are the National Police (herein after: ORFK), the NNI Human Trafficking Department, the OKIT phone line, Victim Protection Services, the IOM, the EMMI, Ministry of Interior (hereinafter: BM), Ministry of Foreign Affairs, Consular services, Hungarian Baptist Aid, and the Representative of the „official shelter”. The different actors cooperate with each other in combating human trafficking. All the official actors (ORFK, NNI, OKIT, IOM, Consulates) are eligible to refer victims to shelters. The task of the BM is to coordinate and manage the Mechanism. The EMMI is obligated to keep a shelter, the OKIT has to run a 24 hours hot-line telephone service for presumed victims and refer identified victims to shelters. If the identified victims of THB, are EU citizens, can ask for assistance at support services as well as they can receive it from their own Embassies.

### n) Assistance

The identification of trafficked third-country nationals is done by the OIN during the first interview of the international protection procedure. There is no

particular facility for sheltering or accommodating alien victims in Hungary. Victims are entitled to be provided with a residence permit on humanitarian purposes. Even though, they would still be placed in reception centres or detention facilities during the time of the procedure. There is no data about providing different or special assistance and protection for victims than those provided for regular asylum seekers. The state does not provide psychosocial assistance for asylum-seekers. Such support is covered by civil organizations.<sup>22</sup> They apply for financial support at different donors. Civil organizations work in detention centres and provide psychosocial assistance for third-country nationals. Professionals of The Cordelia Association work at reception centres, regularly visiting traumatized persons there. All of the employees are psychologists and psychiatrists. According to the modification of Article 89 of Act II od 2007, which was modified on 29 July 2013, civil, non-governmental organizations, local governments and churches may provide institutional assistance for trafficked third-country nationals.

Before the modification of the criminal offence on human trafficking in the Criminal Code the definition of human trafficking had not been in compliance with the definition of the Council of Europe Convention. The lack of proper definition was very sensitive in the practice of law enforcement and caused many failures in providing satisfactory evidence. The legislation did not consider exploitation as a crime, trafficking only occurred in cases as a crime when selling and buying of a human being could be proofed. Therefore, the legislation came to realization in practice only when a commercial exchange demonstrably occurred; otherwise, the legislation in practice did not consider such act as a crime in human trafficking. As previous annual reports show, there were hardly ever any criminal cases in combating human trafficking as a crime. It was apparent that the law enforcement officials had difficulties in proving the offences which refer explicitly to human trafficking and tended to opt instead to secure convictions for other offences, such as earning money illegally out of

illegal immigration or smuggling. Law enforcement officials indeed found it easier and less time-consuming to get convictions on other charges. Trafficked persons were hardly ever able to get payments in damages or compensation and even if they received any, it was a very little amount.

### o) Assistance and Referral in Practice

HBAid provides accommodation to trafficked persons so as the other shelter run by EMMI. The two organizations provide assistance and support in rehabilitation and in reintegration procedures for victims of THB. The shelters not only guarantee safe accommodation for victims of trafficking, but they also provide social services, job consultations, job placement support, medical, legal, psychosocial counseling, competency development, educational and vocational trainings in hand. The aim is to help victims to be able to live individually. The HBAid finances its services and assistance by non-state grants. The two organizations host, protect and assist presumed victims, who are not identified by official actors in the Mechanism. In these cases the hosting organizations do the identification procedures by themselves. Furthermore, it also happens that church organizations, child welfare institutions or family supporter services refer victims to shelters. Provided assistance does not depend on the cooperation of victims with the authorities.

HBAid was the first protection and assistant provider in this field in 2005. Ever since the organization has accepted every presumed victim in its shelter who declared her/himself as a VoT and provided proper services. HBAid considered and treated presumed trafficked persons as victims even before the competent authorities had the slightest indication that the person a victim of THB. During the identification process the presumed trafficked person has access to assistance and support, regardless of whether s/he is able or willing to testify. HBAid provides assistance and protection for long term period even if a VoT is not willing to testify. Reintegration of victims starts

after the first 6 months; victims may stay in shelters for up to 3 years to be able to start a monitored life independently. According to a Memorandum of Understanding (MoU) going back to the time when HBAid operated the official shelter HBAid is allowed to decide whether a presumed victim needs recovery and reflection period or not.

In 2005, the Ministry of Foreign Affairs issued a directive that contains guidelines to the Hungarian Consular Service on how to provide consular assistance to the victims of TIP. The directive underlines the importance of the protection of victims and instructs Consuls on how to repatriate victims safely, or place them in shelters with the assistance of the governmental or non-governmental organizations of the receiving countries. The directive has an attachment with the contact details of such organizations in Hungary and abroad.

Ást is aimed at implementing the EU Council Directive 2004/80/EC 2004 relating to compensation to crime victims. Article 1 section (1) of Ást stipulates that trafficked persons are entitled to receive victim support. Victim assistance is provided by the county offices of the Office of the Justice Victim Support Service and covers monetary and legal aid and state compensation to victims of crimes when individuals suffered severe physical or mental damage as a direct consequence of a crime. In reality, compensation is rarely granted.

The Victim Support Service can secure psychological assistance for crime victims within the frame of facilitating the victims' interests. At the Budapest Victim Support Service, psychological help is available once a week on the basis of an agreement between the Office of Justice and a psychologist. There have been no trafficked persons from third-country nationals referred to them to apply for any support.<sup>23</sup>

The Act on Crime Victim Support and State Compensation provides the following services to victims of all types of crimes: providing information; securing psychological assistance; providing help for assertion of interest; legal aid; a maximum of approximately \$380 instant monetary aid; and state compensation

for indigent victims of violent crimes. There were approximately 60 regional and local victim protection offices and 11 regional crisis centers where trafficking victims could receive short-term psychological, social, and legal assistance. All government funding comes from the state budget but may be administered at the county level.

If the crime was committed outside of Hungary, general victim support services are only available for Hungarian citizens residing abroad legally. This regulation will be modified in 2015 in order to meet EU directive 2012/29 of the European Parliament and of the Council of 25 October 2012 on establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

Third-country nationals submitting asylum application can be accommodated in private accommodations, reception centres (in Bicske, Vámoszabadi and Debrecen cities) or guarded asylum detention centres (in Békéscsaba, Debrecen and Nyírbátor cities). The number of migrant refugees has been constant for many years but the migration pressure of this year influenced significantly this trend and their numbers reached more than 16000 until October 2013. In most cases victims of human trafficking are not identified. However, if a trafficked third country national is identified as a victim of THB, s/he still stays in a reception centres for the duration of procedure. Consequently, a trafficked third country national has no access to proper psychosocial assistance as a victim. NGOs that provide shelter assistance are not able to provide protected accommodation and services for foreign victims of THB for they are not reachable for the civil organizations.

The Mechanism does not mention trafficked third-country nationals. Shelters are not prepared to provide appropriate assistance or crisis intervention for aliens or taking them through an integration procedure.

During the international protection procedure, asylum seekers, or rejected applicant, might be identified as a victim of human trafficking. The following

comes into practice; Article 9/A Act CXXXV of 2005 In the event the victim supporting authority establishes that the national of the third country requesting support is a victim of trafficking in human beings – besides those specified in Article 9(1) – the authority shall inform him/her on the followings a) the victim has one month time to consider whether s/he is willing to co-operate with the law enforcement authorities; b) “the victim is entitled to certificate of temporary residence for the reflection period, and to receive residence permit for the period of cooperation with the authorities”

Other instruments of law do not regulate special care of rejected applicants when identified as a victim of human trafficking. Article 29.(1)e of Act II of 2007 by initiative of the national security or law enforcement agency – to any third-country national, or other affiliated third-country nationals on his/her account, who has cooperated with the authorities in a crime investigation and has provided significant assistance to gather evidence is entitled to receive residence permit for humanitarian purposes. If a person is a victim of THB according to Ást s/he is eligible to be supported and provided assistance. Further, under Article 30 (1) lit. e) of Act II of 2007 third-country nationals being victim of THB have to be provided certificate of temporary residence.

It is to be mentioned that Article 9/A and Article 43(3), which came into force on 1<sup>st</sup> July 2007 with the aim of implementing sections 5 and 6 of Council Directive 2004/81/EC 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. There is no data available about cases when third country national victims changed or participated in parallel in asylum and other procedures deriving from THB for identified victims.

Because of modification in the provisions of the Act CXXXV of 2005 on Crime Victim Support and State Compensation (Ást) Hungarian victims of trafficking in human beings can receive special supports for victims of THB ir-

respectively of their cooperation in the criminal proceeding.

According to Article 9 Ást victims of human beings always have access to information on relevant court and administrative proceedings in a language which they can understand. Victims are told about all the procedures they can use to obtain compensation for the damage suffered. Victims only eligible to receive state compensation if they are able to prove any legal proceedings about them being a victim of a criminal. They have to be informed about the available support and services of the state, local governments, civil and church organizations, furthermore depending on the type of crime informing them how to prevent revictimization.

In case of aliens, victims are informed by the competent authorities about how long they can remain in the country. The county offices give a wide range of information and advice to anybody on the most important legal rules relating to crime victims (for example on the rights and obligations the victim has in criminal proceedings, the forms of support available to the victim and the conditions for application therefore, any available benefits, allowances and opportunities to assert the victims' rights etc.).

Under Article 9/A, the competent authorities have to inform presumed foreign trafficked persons that they have one month to consider whether they are willing to cooperate with the law enforcement authorities, are entitled to a certificate of temporary residence for a reflection period, and to receive a residence permit for the period of cooperation with the competent authorities. Article 29(1)e of Act II of 2007 provides that any third-country national, or other affiliated third-country nationals, who cooperated with the authorities throughout the investigation and contribute to gather information and evidence is entitled to receive a residence permit for humanitarian purposes.

According to Article 29 of Act II of 2007 third country nationals have to be granted residence permit based on humanitarian purposes. Furthermore, those migrants are entitled who are recognized as refugees or apply for protection

at the competent authorities, furthermore, unaccompanied minors and abandoned children who were born in Hungary. Residence permits are dependent on national security and prosecution case to make investigation provable. A third-country national victim of forced labour, or a minor who was employed without a residence permit in Hungary, have to be provided with a residence permit on humanitarian purposes proposed by the court. This permit is valid for one year and can be extended for an additional year. In the case of forced labour, the permit is valid for the time of the investigation and till the end of the prosecution. During the procedure third-country nationals are placed in reception centres in order to be available, and to limit their movement. Therefore, lots of the aliens cancel their international protection proceedings.

The migration authority will place the migrant for the period of the procedure to private accommodation or to reception centre except for the migrant is under a measure restricting personal liberty, penalty or measure restricting personal liberty enacted in immigration proceeding. Unaccompanied minors will be placed in child protection institution.

Trafficked third-country nationals are referred by the Police to reach international protection procedures. The official identification proceeding is conducted by the Police, aliens are not detected by other organizations. There is no other possibility available for victims other than cooperating with the competent authorities after receiving 30-day reflection period. International protections of third-country nationals are conducted by the OIN. The procedure starts immediately under the regulation of Article 9 on Ást about informing victims about consequences of investigation and prosecution procedure, furthermore, about available support, services and the assistance provided by civil or church organizations. Trafficked third-country nationals are entitled to be informed about the 30-day reflection period and the following residence permit on humanitarian purposes. During the reflection period, the person is provided with a certificate of temporary residence permit.

## 2) THE RESEARCH METHODOLOGY AND SOURCES

HBAid has based its research on interviews with victims and experts of the assisting area, relevant official authorities from the area of crime, justice and jurisdiction and on relevant stakeholders. Existing cases were also used and a research concerning the legal background was also conducted. The existence of the viewed aspects; the forced criminal activity as a trafficking case is mostly proved in the interviews with victims. Otherwise it only occurs as an associate activity in other forms of trafficking issues.

Concerning the field research decided to focus on Roma children institutionalized in juvenile correctional center for deviances or for different criminal activities who are also victims of sexual exploitation and on victims of forced labour and domestic servitude. To collect information on it we conducted:

- institutional stakeholders interviews,
- semi-guided interviews with victims of forced labour and domestic servitude,
- informal interviews with Roma children at risk.

### a) List of interviews

- 32 Children in juvenile correctional centers and foster homes (age 14-18)
- 3 VoT's in shelters
- the Office of the Prosecutor General of Hungary (5 prosecutors)
- National Bureau of Investigation
- National Police (2 policemen and the Director of Children and Juvenile Crimes Department)
- Service Providers and social workers at Children Protection Services, Family Welfare Institutes
- Substitute Director, Educators and Psychologists of the Juvenile Correctional Center



- 2 Guardians of children and adults
- Chair of Criminology Department, Law School, Budapest, Hungary

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Hungary is primarily a country of origin, the research on Hungary rather shows typical situations of victimization and introduces potential victims. It introduces special environments, social and existential circumstances that victims are surrounded with. It gives a great picture on victims typology based on empirical experiences. There is a review on legal aspect which is rather a cognitive aspect. Hungarian legislations on identification, forced labour and labour exploitation are brand new, therefore, there are no closed cases/conviction on

trafficking or enough experience in legal issues on e.g. forced labour. Before July 2013 labour exploitation was a qualified type of the felony Violation of personal freedom (former Criminal Code Article 175 Section 2). There have been no data available in forced criminal activities, so we have no chance to see results of investigations and reinforcement of working legal issues.

Even though, there is no official data or consideration about the phenomenon as a trafficking issue, the research shows a most relevant need of attention to this form of exploitation. Hungary has a fresh experience of reinforcing trafficking cases in legal processes according to the new legislation. Consequences and the recommendations are highly suggested to take under consideration specially at the time of changing and introducing the advanced and improved trafficking legislation.

The unnoticed researched phenomenon is even more severe than the great latency in case of forced labour and such forms of modern slavery and domestic servitude. Identification suffers from serious difficulties, therefore there are not many successfully closed cases. Assistance and availability of help need more publicity and support, furthermore the awareness of the society is essential. It is necessary to mention that there are no proper shelters available specialized for children in Hungary.

### 3) CRIMINAL FORCED ACTIVITIES AS A NEW FORM OF TRAFFICKING

- Number of estimated victims (identified, presumed)

There are no official data available on forced criminal activities, moreover; it is not considered as a form of exploitation or trafficking in persons in Hungary. In case of force the perpetrator of the activity is released and the case is closed.

According to interviews with policeman and children welfare institutes,

they all estimated about 1 victim out of every 100 people in Hungary. They meet children and adults as well who are involved into forced criminal activities.

Children belong to different very closed "galleries" and very difficult to reach them. It is almost impossible to get into touch with these children for the group is protecting them and is very careful not to let the children to get in touch with others outside of the group of the small community.

In cases of adults, it is very hard to prove the forced criminal activities, specially for victims would not testify. Both children and adults are either afraid of the traffickers or linked to them, therefore they would not file a report against them. This situation is very similar to pimp and prostitutions relations.

- Groups involved / minors / adults / Roma minors (specifically, but not only Roma community, not only minors), age and gender

#### a) In case of adults

There are mainly non-Roma male persons involved in forced criminal activities as a victim of this form of exploitation. They are usually victims of domestic servitude and/or forced labour. Most of them are individually (rarely two of them) kept in a Roma family. This form of exploitation and humiliation in persons have been existing for several decades. Roma families in the villages and properties in the deserted, isolated areas have always had slaves around their house. These victims usually forced to do farming and agricultural work. It is very common that they are sent to steal fodder for the animals like (corn, straw and hay) and wood to heat with in the house of the trafficker. Domestic slaves are most of the time forced to commit crimes against wealth.

- Countries of origin / Travel map (place of origin, transit countries, travel means etc.)

Principal international destinations for victims trafficked from Hungary are the Netherlands, Belgium, Germany, Austria, Switzerland, the United Kingdom and Italy. Some victims are taken to France (the Hungarian foreign mission noticed 2 cases of sexual exploitation), Spain (the Hungarian foreign mission noticed victims of drug-trafficking cases), Sweden (the Hungarian foreign mission noticed 1 presumable victim of sexual exploitation), Cyprus (the Victim Support Service noticed in 1 case Cyprus as place of exploitation), or the US (the Hungarian foreign mission noticed presumable victims of labor and sexual exploitation) one case from Island in 2014.

We received no information about Hungarian victims exploited in Greece.

The principle countries of origin for victims of trafficking transiting through Hungary are Romania and Bulgaria. However, there are no especially such information from the organizations it can be established that due to the geographical situation of Hungary and due to the fact that Romania and Bulgaria are countries of origin for victims of trafficking.

- Trafficking/exploitation: cause for leaving the country or effect of vulnerability in the destination country

Victims of labor exploitation were trafficked internationally from Hungary primarily to the United Kingdom, the Netherlands, Belgium and Canada. Unemployed and low-skilled men have become more vulnerable to labor trafficking, especially in the United Kingdom, which was the primary destination country for labor traffickers.

Victimization in Hungary has several root causes like poverty, high unemployment, and inequality in the labour market. In *the counties on the map indicated by red - especially the North-Eastern region of Hungary - unemployment rate is quite huge which one of the reasons for victimization is.*

High-risk groups for trafficking in-

cludes on the one hand people who lost their job or are unskilled and on the other hand undereducated young adults resided in poor conditions or had lived in state-provided welfare homes or juvenile correctional facilities. Most of the victims are single younger women (18-25 years old) sometimes they are pregnant or already have a baby. *They have very few employment or higher education options, and often have very weak or non-existent family support networks.* In some cases the families sell their children to the perpetrators and in many cases of sexual exploitation victims know that they have to work as prostitute but they do are not aware of the fact that they will be exploited, beaten, or will not receive any money.

It is also a common problem that they have not enough information about the details of the offered job. E.g. they apply to an advertisement offering erotic job / massage / dance / escort and they realize later at the "workplace" that they got into trouble. They decide to report the crime when they feel that they are exploited however in many cases victims are threatened, cannot speak the foreign language of the country, are not aware of their rights and opportunities, do not know where the Consular Office / police / other organizations providing assistance.

In some cases victims have no information about the fact that they will be exploited as the advertisement seems to be reliable (e.g. picking tulips, waiter/waitress jobs) but later at their workplace the employer threatens the employee and forces him/her to labour or sexual exploitation. Based on the report provided by the Police it can be established that many young victims decide to apply to erotic / prostitution related work because they have 2-3 or more children, are under-educated or unemployed. Victims with bad family background can be emotionally influenced by the offender who promises her "nice future and well-paid job" through prostitution. The victims even if they would like to quit the exploitative situation are afraid to ask

for help or even if they ask and report the crime later they decide to withdraw it and disappear.

According to Hungarian foreign missions in 2014 especially underage or young adults turned to Consulates and Embassies for assistance. These presumable victims grew up in general in state-provided welfare homes and the majority of presumable victims forced to prostitution are Roma. Vulnerable groups of labor exploitation are usually unemployed 30-50 years old men and women, low-skilled or unskilled people deriving mainly from Eastern and North-Eastern Hungary. Presumable victims of drug-smuggling are usually undereducated men and women suffering financial problems. In most cases these people travel to South-America after a Hungarian recruiter offers them quick and easy packing work opportunity with high salary.

#### **b) Forms of recruitment and subjection and information about the criminals and criminal organizations**

The profiles of the perpetrators or in their methods of trafficking in persons. Hungarian authorities encountered cases of human trafficking for sexual exploitation, as well as for labor exploitation. According to government officials and NGOs, young Hungarian victims are typically recruited by acquaintances, relatives, or people with whom they have lived in close physical and social proximity, usually within the same geographical area. The majority of traffickers were individuals or small, family-based groups. There is evidence that women are sold into prostitution by their partners and their families. Such women usually live in extremely low-income households. In most cases, traffickers are members of organized crime groups involving drug and sex-oriented businesses. Hungarian perpetrators often remain in contact with their victims after the victims leave the country and

continue to exert pressure on them, as opposed to recruiters who sell their victims and do not remain in any contact with them after the transaction.

Some of the **recruitment methods** used by sex traffickers involve circulating promises of well-paying work for waitresses or dancers in free weekly publications, on the internet, or by word of mouth. These traffickers most of the time make young girls and boys to commit smaller crimes in association with sexual services. Some victims are aware that they are being recruited to perform illegal work, but do not expect to have to perform sexual services or other illegal or criminal activities. Traffickers use threats, force, and emotional attachment to ensure compliance. Most of the time “loverboy” phenomenon occurs using “boyfriends” to create an emotional attachment with young girls and women, and then threaten and prostitute them. This form of recruitment methods are used in forced criminal activities as well. “Loverboys” persuade minor girls or boys to commit small crimes such as stealing and robbery besides providing sexual services. In the worst cases, these women are also beaten and raped by the perpetrators. Victims of sex trafficking in Hungary are forced to solicit clients on rural roads, city streets, metro underpasses, brothels (disguised as lap-dance bars or massage parlors), and in some cases, apartments or private homes. Victims are usually housed in apartments owned by traffickers or outbuildings on their property. In most cases, virtually all the victims' earnings (as well as, in cases of international trafficking into or out of Hungary, the victims' travel documents) are taken by the trafficker or others exploiting them, e.g. brothel owners and landlords. While government officials comment that it is not uncommon for trafficking victims to use fraudulent documentation, a significant number (especially among victims under 18 years old) travel with bona fide documents, making it difficult to identify victims. Traffickers transported victims

in cars, trains, planes and buses.

In cases of domestic servitude in association with forced criminal activities, traffickers seeking for vulnerable individuals with no relatives or other micro social groups. They often recruit homeless from the streets, the shelters, railway stations or pubs. Traffickers start conversations with these people to detect their social, existential status and mental state. Sometimes they only use these vulnerably often alcohol addicted people to buy a cell phone on behalf of them. In other cases they end up in domestic servitude in the traffickers household.

The other jeopardized group is the retired elderly to exploit in person. Traffickers attract elderly with fake promises of taking good care of them, offering comfortable accommodation, a loving family with full service. Once victims are persuaded, perpetrators often get all kinds of loans on goods on behalf of the elderly and in more serious cases they keep them captured in their houses as slaves. It is very common that these elderly are abused and violated in order to make them do whatever the traffickers want.

Homeless and elderly are most of the time are not punishable for they have no wealth or properties or income to pay fines. The forced activities are hardly ever provable in the cases as not voluntary activities. Specially in case of legal proceedings the perpetrator/trafficker makes the living conditions better for the victim to make him/her refuse the filed report. That time the victim becomes weaker again, so the case is closed. Usually at this point the traffickers sell or give the victims away to someone else.

The families who keep slaves around the houses are mostly Roma people. Most of the pimps are also Roma, even minors at the age of 16 or in some cases even under that. Even though, a vast majority of female children involved in prostitution and forced criminal activities are also Roma. “Subcontractors”

who recruit physical workers to employ abroad are also mainly belong to the Roma communities.

#### **c) In case of children**

Children come from families who live in deserted areas, dead ended villages, in workers houses that remained from the former communist regime in very isolated parts of the country. Children victims are also represented dysfunctional families, extreme poverty, parents are often addicted to alcohol or drugs, being in prison or sometimes mentally disabled. Most jeopardized children are those who live or grow up in foster homes.

A very common phenomenon that Roma groups attract non-Roma children to join them. This group works as a “family”, it protects and watches the children as a form of care. Children start to drift into these groups at the age of 10-11. These groups “galleries” force children to commit all kinds of smaller crimes such as pick pocketing, shoplifting, selling of counterfeited products, fraud and also very common to involve girls and boys into prostitution. Some groups are often consist drug dealers. The new members are make to use drugs to be able to entice children to commit small crimes for drugs. In these groups, usually boys commit the crimes, mainly robberies or break into houses and other places, and girls have to watch to avoid to be found during the action.

It is also common that young girls or boys attract older men or women and exploit them in wealth. The young make the older persons believe that they are in love and gradually take their money.

#### **4) ANTI-TRAFFICKING POLICIES WITH A SPECIFIC FOCUS ON FORCED CRIMINAL ACTIVITIES AND ROMA MINORS**

##### **a) General analysis of the adequacy (and identification of obstacles**

##### **and gaps) of the anti-trafficking legal framework**

The Identification Questionnaire (hereinafter: Questionnaire) in the Government Decree is used to help in the identification procedure. The Questionnaire is also a written agreement of the victim to be assisted, provided with health care or shelter placement. S/he also agrees with being officially identified as a victim of trafficking. Third-country nationals stay in international protection procedure. They receive residence permits for humanitarian purposes for the duration of the procedure and if they are victims of trafficking they have to cooperate with authorities.

Indicators for identification: according to the Questionnaire personal data is collected first, after that there are several questions to make during an interview to identify a presumed victim. It examines the victims' health condition, possibility of being a child, sign of abuse and violence, physical condition and other signs such as poor clothing. It examines the sign of restricted personal freedom, living conditions, accommodation, and number of abandoned children and working conditions.

If an eligible organization detects a Hungarian citizen or a person having the right to freedom of movement and residence within the EU who is a presumed victim of human trafficking, it interviews the person for identification. The official authority in many cases is the Police, the National Crisis Management and Information Telephone Services (herein after: OKIT), National Bureau of Investigation (hereinafter: NNI) and last but not least the International Organization for Migration (hereinafter: IOM). According to the National Referral Mechanism (hereinafter: Mechanism) these actors are all entitled to refer victims to shelters. When a victim is officially identified, and the victim is able to provide a written consent, the next step is to notify the local victim supporter service. The Office of Victim Support follows regu-

lations under Act CXXXV of Supporting the Victims of Crimes and on State Mitigation of Damage 2005 (herein after: Ást) parallel to this, if the victim has no secure accommodation, under the victim written authorization, the identification organ notifies the OKIT. The service of OKIT is in contact with the management of the shelters and OKIT informs the victim about the conditions and the circumstances provided by the shelters. If a victim requests accommodation in a shelter, the OKIT calls the managers of the shelters and connect them to the identified victim to organize his/her secure transportation and adaptation.

The first sign of a presumed victim might occur at the OKIT which is a 24-hour, toll-free hot-line service. One phone call lasts for 7 minutes assisted by specially educated social workers. There are about 50 calls per day and 20-25 of them are considered as real issues<sup>24</sup>. OKIT also assists victims of domestic violence.

Forced criminal activity is not considered as a form of trafficking, therefore, referral units rather focus on sexual or labour exploitation, forced marriage and the different appearance of slaveries. However, this research shows in interviews with two male victims of domestic servitude that they were also forced to commit smaller crimes and were identified as victims by the Police.

It is important to note that the Government Decree after regulating the order of accommodating a victim, it disposes of the about reintegration procedure. The expression of reintegration is essential at this point for we may see that the Regulation focuses on repatriated Hungarian citizens, which is a specific and particular remark of the country in comparison to other European countries. The mentioned civil and governmental organizations in the Mechanism, that are entitled to identify victims, almost without exceptions, they only meet Hungarian trafficked persons. They either become a victim inside the county or are taken to abroad.



**b) Specific analysis of the adequacy (and identification of obstacles and gaps) of the anti-trafficking legal framework for responding to the needs of victims trafficked for the purpose of exploitation in forced illegal activities and for combating this specific form of the crime (especially taking into account the problem that victims appear as offenders)**

The official identification procedure came into force 1 January 2013 according to the above mentioned decree. There is no evaluated data on its practice. There have been no official indicators for identification used by official or non-official organizations.

**c) Description of the monitoring and data processing systems in place in order to detect if and how trafficking in forced criminal activities is dealt with.**

There is no data available about cases on forced criminal activities, specially not on numbers of victims about this phenomenon. Children in jurisdiction are most probably presumed victims of forced criminal activities. Specially, if we consider their social and existential circumstances and go through their family background and pay attention to possible abuses and violence in their early childhood. Therefore, the only chance to examine the phenomenon is to analyze statistics about children involved into criminal activities.

**Let us see an example of a county in the South-West Hungary**

*Baranya county*  
01.01.2012 There were 53.865 children (0-14 age) and 17.488 young (14-18 age)

**Total number of children and minors under 18 is 71.353 according to the**

**Central Office of Statistics (KSH)**

01.01. 2012 number of minors under protection - 1364  
2012. minors taken under protection during the year - 482

**12.31.2012 total number of minors under protection is 1243**  
children - 710  
young - 685

**Reasons of taking minors (0-18 age) under protection are the following in 2012**

minor committed a crime	50
minor broke the law	86
missing school	375
addicted minors	15
parent criminal behavior	25
parent is addicted	78
parent assisted to miss school to minor	154
parent is careless	381
behavior of minor	112

In category of other there were 381 cases of children taken under protection for the careless behavior of parents, such as jeopardizing the health of the child, the physical, emotional, and mental development of the child.

In 112 cases there were some problems of the behavior of the children and were taken under protection in 2012

**Reasons of cancelling the protection:**

- Children committed crimes become adult (18) in 42%
- Ordering guardians in 17%
- Ordering other child protection process in 17%
- Positive result in 17 %
- Moving from the area in 5%
- Correctional center (prison for minors) in 2% 25

According to this statistics we can see that in an average county of Hungary where there are about 71.000 children, 50 commit a crime, however; only 1 or 2 go to the prison for young. therefore we might assume that force or persua-

sion are possible issues in criminal activities among children. However, there were no data available in the police or at the prosecutions offices about cases where children were released as perpetrators for the reason of forced criminal activity.

**In general on THB cases**, the National Anti-Trafficking Strategy established a mechanism for the GOH to systematically monitor its anti-trafficking efforts, but there was minimal evidence of operational effectiveness. The government did not release regular reports on the assessment of anti-trafficking efforts. Data on investigations and prosecutions of trafficking cases was publicly available on the website of Unified Statistical System of Investigations and Prosecutions (ENYÜBS) operated by the Ministry of Interior.

The internal police database (Robotzsaru) used by police officers across Hungary gives local investigators the ability to flag any crime they believe could have a THB connection. Officials from the NBI Department of Trafficking in Human Beings have access to flagged data and can examine it to determine whether there is a THB offense.

National Rapporteurs or equivalent mechanisms - of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims prescribes that all Member States shall take the necessary measures to establish national coordination mechanism and to appoint national coordinator. Tasks of the mechanism is to assess trends in trafficking in persons, measure results of anti-trafficking actions, gather statistics about victims and perpetrators of human trafficking.

In Hungary the National Coordination Mechanism and the NGO Roundtable are those mechanisms which are taking part in the assessment of human trafficking problem and actual trends of trafficking. Involving relevant members of the NCM anonym data is collected about potential victims of trafficking

and suspected perpetrators with help of an electronic file format in every half of the year. Collected information: sex, age, nationality, forms of exploitation, methods of exploitation, location of exploitation, relationship between victim and perpetrator, methods of recruitment, educational / occupational background, form of support provided for the victim, family background, period of exploitation, assistance provided for the victim.

In the field of justice, it is ENYÜBS where data on criminal cases are recorded, up to the moment when criminal proceedings are launched. The **Robotzsaru Neo system** offers a separate module where it is obligatory to mark proceedings launched due to the suspicion of human trafficking, and victims involved in such proceedings are thus possible to identify. The ENYÜBS system furthermore records data on the perpetrators, in addition to the characteristics of the criminal action. Data on final judgments are collected in court statistics which is handled by the National Office for the Judiciary. In the Ministry of Interior development of ENYÜBS is under process. It is planned that the statistical system of the National Judicial Office and the Hungarian Prison Service will be connected with ENYÜBS. This way integrated criminal statistical system can be set up which allows to have continuous information about a case and perpetrators from the beginning of the time the crime was reported through the prosecution process and judgment process until the final imprisonment of the perpetrator has expired.

**d) Case law**

Pursuant to the Hungarian legal system, the Government cannot encourage victims to assist in criminal procedures. The trafficked person participating in a crime and providing evidence is qualified to be a witness. The rules of restitution are also stipulated in the Criminal Procedure Act. The Criminal Procedure Act guarantees the confidentiality of the

personal data of the witness, which may be handled separately from the case file and can be known only to the court, the prosecutor and the solicitor representing the witness. Witnesses whose testimony relates to a serious crime and whose testimony cannot be replaced with any other evidence are entitled to special protection, such as of their person and their whereabouts. Additionally, their status as a witness may not be known to the defense or to the accused, in order to protect their safety and the safety of their relatives.

In 2001, Hungary adopted the Witness Protection Act. In theory, the program grants physical protection to witnesses. The program is available to victims of trafficking, provided they are willing to testify in a court of law. The program is available for foreign nationals as well. Endangered witnesses can be moved to a protected residence within Hungary or to another country and their identity can be altered. The state socially and financially supports protected persons. No trafficking victims participated in the Witness Protection Program in 2011.

Hungarian victims are not granted a reflection period, but must decide right away if they will cooperate. No trafficking case is tried without the victim's testimony.

**e) General description of the training system in place and/or initiatives implemented related to anti-trafficking**

Government Decision No 1351/2013 (VI. 19.) on the national strategy against human trafficking for 2013 – 2016 states different kinds of guidance and training for professionals and others working on the field implementing them in the next 4 years.

The Ministry of Interior is planning to train 100 policemen from 2014 to 2016. The aim of the project is to develop knowledge and skills of referral and identification of victims. When im-

plementing governmental and civil organizations will be both involved to train.

There is on-going preparation training for experts who work on the field of assisting and protecting victims. The aim of the project is to sensitize victims' need in many different ways. Article 124(1) of Act CXCIX of 2011 on Public Service Officers rules that government officials employed at organs appointed as victim support services sit for an administration exam within two years following their appointment, where they are tested on their justice-related knowledge as well. Detailed provisions on this administration examination are included in Ministry of Public Administration and Justice Decree No. 22/2010. (XII. 28.). The subjects and requirements of victim supporters' examinations are listed under Article 7 of the decree which will be completed with expectations related to human trafficking, the characteristic features of human trafficking victims and on victim protection. Protocol and legislation amendment [Ministry of Justice Decree 22/2010. (XII. 28.)] will be implemented until 31 December 2013.

The Ministry of Interior, the Police and the National Administration University have been working on building a network of professionals at the Police that provides special knowledge the participants of the training. Training of professionals on the field of trafficking in human beings is on-going until 2016. Governmental and civil organizations are both involved in the training providing e-learning material.

Case managers will be prepared and placed to every county in Hungary from 2013 to 2015. Twenty social workers will receive training to be able to provide proper forms of service, assistance and support for victims. The prepared social worker will be placed at the victims support service at every county. Civil organizations also participate to implement to project.

The 24-hour crisis telephone service of OKIT will be extended to be able to

be available for victims from abroad as well. The implementation of this project will be in 2014.

There is an on-going project about sensitizing organs in the field of identification and supporting victims and authorities working on prosecution procedures. The aim of the project is to obligate employees of authorities in the field of justice and official organization that are eligible to identify victims to inform victims about available assistance, rights, and possibilities about advocacy of theirs.<sup>26</sup>

#### f) Specific trainings or parts of a training devoted to trafficking and exploitation in forced criminal activities

1. The Ministry of Interior joins the project *Capacity Building for Combating Trafficking for Labour Exploitation*. In the framework of the project a „*Training on Combating Trafficking for Labour Exploitation: Identifying Victims, Investigating Cases, Prosecuting Offenders*” took place on 19-22 November 2012 in the Ministry of Interior.

The objective of the training was to provide participants of the target and destination countries with more knowledge on the topic of trafficking in persons for labour exploitation; to discuss existing practices in the investigation and prosecution of trafficking cases and share lessons learned; to expand the network of professionals dealing with the issue at hand; to equip participants with practical tools they can use in their daily work on investigating and prosecuting trafficking cases. Target groups of training were police officers, prosecutors, inspectors, and detectives, legal experts from Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Hungary, Poland, Romania, Slovakia, Slovenia, the Netherlands, and United Kingdom. Nearly 60 participants took place in the training.

2. Thanks to the support and contribution of the Royal Netherlands Embassy several trainings have been organized by MONA Foundation for the women in Hungary which aim was the fight against trafficking in persons. 57 persons participated in the trainings “*Inter-professional cooperation against the suppression of prostitution, trafficking and for the assistance to victims*” during the period 2010-2012.

The training intended to help and prepare law enforcement, social, health and child protection experts in identifying and assisting potential victims of trafficking, sexual exploitation and child prostitution.

3. Thanks to the support and contribution of the Embassy of Netherlands and the Embassy of Sweden a professional seminar “*Combat human trafficking for sexual exploitation*” was organized by MONA Foundation in 2012. 14 police officers of the Hungarian Police-Headquarters attended the seminar.

4. The Hungarian Police Headquarters and the representation of the Hanns Seidel Foundation (HSA) in Budapest organized a conference called “*Fight against human trafficking – unprotected victims*” in October 2012.

Police officers responsible for victim protection attended a professional training in 2012 which focused on the fight against trafficking in persons. The main training topics were: Victims of child prostitution in boarding schools; Building inter-professional cooperation in Hungary for the fight against trafficking in persons and prostitution; Future outlook of migrant prostitutes in Hungary and in Switzerland; Prostitution, forced prostitution, trafficking in persons; EU Strategy towards the Eradication of Trafficking in Human Beings (2012-2016); Transposition of Directive on preventing and combating trafficking in human beings and protecting its victims; Role of the church in victim protection; etc.

5. On the occasion of the Memorial Day to Victims of Crime the Office of Public Administration and Justice organize a 1 day event and seminar in the end of February 2012. Priority theme of the day was trafficking in human beings, victims support experts, police officers, jurists, etc. attended there.

6. The Ministry of Interior takes part in the project “*Integrated approach for Prevention of Labour exploitation in origin and destination countries*” with Romania. The project’s general objective is to decrease the dimensions of trafficking in persons for labour exploitation in origin, transit and destination countries. The project partners are: European Public Law Organization from Greece, National Commission for Combating Trafficking in Human Beings from Bulgaria, Organization for Equality, Support and anti-racism (KISA) from Cyprus, Ministry of Interior of FYROM.

In the framework of the project a regional seminar was held in March 2013 in the Ministry of Interior to improve inter institutional cooperation and increase the capacity of fighting against trafficking in human beings for labour exploitation for labour inspectors, judges, prosecutors, police officers, social workers, NGOs.<sup>27</sup>

7. In 2012 the Budapest Social Source Center (BSZF) was granted by GOH for a two-year project aimed at improving victims’ assistance in Budapest. In 2013 and 2014, the project included ten four-day long training sessions for victim service providers, law enforcement professionals, and the judiciary with the objective of improving inter-agency cooperation, awareness-raising, and prevention. These training sessions included a four-hour module on THB. In addition, a study was published by Anna Betlen entitled the *Prostitution and Trafficking in Persons in the Social Welfare System and Child Protection in Hungary*. The study concludes that the access of THB

victims to support services is limited to only a few people per year, and only victims having supplementary problems such as drug addiction, mental disorder, or homelessness have a reasonable expectation of receiving assistance.

8. On 08 May 2014 Bács-Kiskun County Police Headquarters held training in Kecskemét for 30 police officers working in the field of crime prevention, criminal activities, migration, economic protection, public order and safety. Topics of the training were: Introduction to and development of victim assistance, the current situation of victim assistance and protection in Bács-Kiskun County, identification of human trafficking victims, disappearance of minors. Trainers of the training were colleagues of the Office of Public Administration and Justice – Victim Support Department; Bács-Kiskun County Government Office Justice Service – Victim Support Department; Criminal Directorate of the Hungarian Police Headquarters.

9. On 22 May 2014 Pest County Police Headquarters held mentor training in Budapest for the police staff in order to contribute to the proper implementation of the Government Decree No. 354/2012. (XII.13) on the identification order of victims of trafficking in persons. 30 police officers working in the field of crime prevention, law enforcement and criminal activities attended the training. Topics of the training were: The current situation, tasks and responsibilities of state victim assistance, the phenomenon of trafficking in persons and regulation of victim identification, referral of victims, and prevention of victims in particularly vulnerable position. Following the training these police officers became mentors and educated their colleagues about the above mentioned topics. Trainers of the training were colleagues of the Office of Public Administration and Justice – Victim Sup-

port Department, Ministry of Interior and Pest County Police Headquarters – Crime Prevention Department.

10. On 3-5 December 2014 Crime Prevention Department of the Hungarian Police Headquarters held training entitled “*Child and victim protection*” in Pilisszentkereszt. 40 police officers working in the field of child and victim protection attended the training. Topics: trends and practical experience of trafficking in human beings, referral and assistance of victims of trafficking, national coordination among organizations against trafficking in local level, secondary victimization, cybercrime, the role of non-governmental organizations in prevention of victimization. Trainers: colleagues of White Ring Public Benefit Organization, Hungarian Baptist Aid, UNICEF, EURES (European Employment Service), Blue Line Children Crisis Foundation, National Institute of Criminology, National Bureau of Investigation, National Media and Info-communications Authority, Office of Justice, Ministry of Interior. The implementation of the training was supported by the Hanns Seidel Foundation.

Based on the information provided by the Hungarian Police Headquarters in 2014 for colleagues of the National Security Service training was held on trafficking in human beings.

11. Based on the information provided by the Metropolitan Court of Budapest a Hungarian NGO, Patent Association carried out a research on judges in the judicial proceedings. Thanks to this in March a sensitizing training is foreseen for the judges.

22-26 September 2014 training was held for the judges specialised on criminal cases:

- a presentation called „*The elimination of human trafficking, victim protection the implementation of the Action Plan 2014*”.

- 80 persons participated at the training

12. 6-7 October 2014 a conference was organised in the topic of victim protection where a presentation called „*The victims of human trafficking*” was held by a legal officer of the Ministry of Justice.

13. In 2014, the Hungarian Prosecution held a training on 13 October – 17 October 2014 for 34 deputy-chief prosecutors in Balatonlelle.

From 06 2014 until 03 2015 2014, 5 Hungarian investigator spent 2-2 months at Europol within the framework of the „*Operational Cooperation for Fighting Sexual Exploitation Committed by Hungarian-based Organized Crime Groups in Europe*” project. Through this the investigators can gain practical and theoretical knowledge as well.

#### g) Data collection

In 2014, the police conducted a total of 25 THB investigations, including 20 cases under Section 192 of the 2012 Criminal Code and five under the 1978 Criminal Code. Based on Section 175/B of Act IV of 1978 4 proceedings started in 2013 and 1 in 2014. Based on Section 192 of Act C of 2012 11 proceedings started in 2013 and 9 in 2014. In 2014, the police conducted 16 investigations of forced labor under Section 193 of the 2012 Criminal Code. Based on Section 193 of Act C of 2012 6 proceedings started in 2013 and 10 in 2014.

· Need of and obstacles related to the implementation of trainings or parts of a training devoted to trafficking and exploitation in forced criminal activities

During the research period, it was found out that experts from the field need more information about the phenomenon of forced criminal activities. Even though, it is very hard to proof that force is a possibly considerable issue,



it should still exist as an option, especially in case of children perpetrators.

## 5) PRACTICES / OPERATIONAL PROCEDURES ADOPTED WITH REGARDS TO THB WITH A SPECIFIC FOCUS ON FORCED CRIMINAL ACTIVITIES AND ROMA MINORS

### a) Asylum seekers and refugees system

According to Article 29(1)e of Act II of 2007 on the entry and stay of third country nationals, for substantial national security or law enforcement reasons – by initiative of the national security or law enforcement agency – any third-country national or other affiliated third-country nationals on his/her account, who has cooperated with the authorities in a crime investigation and has provided significant assistance to gather evidence is entitled to receive residence permit for humanitarian purposes. If this person is a victim of THB, then according to Act CXXXV of 2005, Article 9/A on Crime Victim Support and State Compensation he will be informed and provided with a 30 days long grace period to decide on cooperation.

*Hungarian legislation distinguishes four protection statuses: admitted persons, unaccompanied minors, stateless persons and victim of human trafficking. Eligibility for these forms of protection shall be determined on individual basis.*

### b) Unaccompanied minors protection system

Protocol for children is different. When an unaccompanied third-country national minor illegally crosses the border of Hungary, s/he is placed in a suitable foster home for Hungarian children. Children are only placed into reception centres together with their families. A great number of unaccompanied minors

can be found at some particular regions of the country, one of the frequented areas is Csongrád county as they are travelling north from Serbia. Lots of them are detected by the authorities in this area, others reach the capital city, therefore, Budapest is the other location for detecting alien children. It is very common that children have no travel documents; consequently, several adults are placed into foster homes as well as they self-report themselves as being under the age of 18 to be placed rather in foster homes. A new age assessment examination was introduced in Hungary in 2013 for avoiding these cases.

If an alien child is placed in a foster home by the competent authority s/he is entitled to have a 72-hour crisis intervention procedure. During the 3-day procedure proper professionals have to try to find the parents or relatives of the child and organize a family reunification. If the family members cannot be found, a child protection procedure has to be initiated and the child must be referred to a temporary reception. The international protection procedure of unaccompanied minors is conducted by the OIN. Children have the right to use their mother tongue during the procedure and an interpreter has to be provided by the OIN. There has to be a case guardian provided whilst a child is interviewed. During the crisis intervention children are eligible for pocket money and health services. Third-country national children without guardians usually stay in Hungary for 2-3 days than they travel on, most of the time with smugglers to reach their desired destination country.<sup>28</sup>

There is an information leaflet available for unaccompanied children in various languages about basic information and cultural traditions at Child Protection Methodological Services. Communication difficulties are a great obstacle in taking proper mental and physical care of the children. It would be essential to provide psychosocial care, crisis intervention and health care for frequently occurred latent infections and other

health problems coming from the poor conditions of the children. During the procedure, foster homes have very little information about expected actions and results about the outcome of the protection procedures, therefore, the insecurity and the lack of information make children more anxious.

The *Szent Ágota Child Protection Service* opened its home for refugee children in 2013 in Hódmezővásárhely, Csongrád, Hungary. The home is able to host 18 children. They have only received male unaccompanied minors so far. There is a big fluctuation as it mentioned above, however, there are 7 children who have been staying in the home for longer time. 99% of these young boys apply for refugee status as soon as they arrive, even if they know that they will not stay more than 2-3 days. The OIN provides them residence permit on humanitarian grounds for one year. Children do not have to cooperate with authorities.<sup>29</sup> There is no data about child VoT's in procedure.

### c) Juvenile jurisdiction

*Children as the most jeopardized group of victimization*

High-risk groups for trafficking included under-educated young adults, at least half of them belong to the Roma minority, who resided in poor conditions or child welfare facilities in eastern and northeastern Hungary. Most of these individuals are originated from dysfunctional families, victims had experienced various forms of child abuse. Number of not Roma victims commonly live in small villages in very basic conditions and in extreme poverty; having no electricity, water sewage and modern heater system available in their homes. A large percentage of the victims, especially underage female victims, had lived in state-provided welfare homes or juvenile correctional facilities until they were released at age 18. A number were also trafficked while still in these state

institutions, according to local NGOs. Young women, and sometimes boys, were especially vulnerable to exploitation in prostitution and human trafficking. Underage girls in a Budapest correctional facility/care home continued to be recruited and prostituted by male pimps during the hours they were allowed to leave the facility. In turn, the victims (most between 14 and 16 years old) recruited and prostituted other girls in the home. When children leave these institutions at the age of 18, they may be entitled to a one-time allowance, stipulated in the Child Protection Act. The allowance is usually insufficient for an apartment lease and living expenses, but constitutes more money than they have ever had. NGOs claim that the stipend is dangerous because it attracts the attention of pimps and traffickers. There is also a mentorship program available to those over the age of 18, but it is not often used in practice, and NGOs claim it is ineffective. Persons who have resided in state-run child welfare facilities usually have lower levels of education compared to other young adults, have very few employment or higher education options, and often have very weak or nonexistent family support networks. As a result, most of these women find themselves indigent and homeless in a matter of weeks. Out of desperation, they often turn to prostitution and quickly find themselves at the mercy of traffickers and/or pimps.

Ombudsman for Fundamental Rights Mate Szabo stated in a December 2011 report that police generally treat children caught in prostitution as perpetrators, as opposed to victims of trafficking, and even launch criminal proceedings against them.

## 6) THE STORIES: PRESUMED AND IDENTIFIED VICTIMS OF TRAFFICKING IN FORCED CRIMINAL ACTIVITIES TALK ABOUT THEMSELVES. AND OTHERS TALK ABOUT THEM

In cases of an adult female victim, forced criminal activity was an associated activity to other forms of exploitation. She was sold by her husband and spent eight years at a Roma family as a domestic slave. She was forced to be a prostitute on the street and also to be a prostitute in the house. She also belonged to the Roma minority, however, to a different type of Roma group. She was threatened to death and physically abused every day for not to dare to leave the family. She was often sent to e.g. steal wood in a group of people to watch. Also, the family bought cars on behalf of her, therefore she is sought by the National Tax Office for debts. She was also forced to act in a porn movie and her salary was taken all. Since, her husband sold her and her parents passed away by that time, she had no one to count on or ask help from. After eight years, she was rescued by the police and taken to a shelter of HBAid. The trial on her case has only started in February where she is considered a witness.

The other two interviews were recorded with two men who are victims of domestic servitude and forced labour. They were both kept at a Roma family in Western-Hungary. Besides working with animals and around the house, they were often sent to steal corns and wood. The two men were emotionally and physically abused regularly. They were rescued by the Police and taken to a shelter run by HBAid.

The two men reported a lonely and poor living conditions when they get to know their traffickers.

Further interviews were taken in the juvenile correctional facilities for girls. Those who were spending their punishment for committing crimes were all Roma girls. Most of them reported “loverboy” situations. They were all involved into prostitution in their past and also persuaded to commit smaller crimes.

## 7) RECOMMENDATIONS

- Establishment of shelter for child victims
- Increased awareness raising for relevant authorities is needed
- *The interviews suggest that people know too little about forced criminal activity as a form of exploitation. It is essential to transfer of comprehensive knowledge about the phenomenon.*
- *Trainings for all authorities (e.g. Police, Guardians, Prosecutors, Lawyers, Social welfare institutions, etc), including inter-divisional, joint trainings are necessary.*
- *Arrangement of (legal) counsel for affected people by control authorities is recommended.*
- Further awareness raising for special interest groups is needed
- *Providing information to the jeopardized groups and to the society about the phenomenon and the possible legal proceedings*
- *Prevention programs all over the country for children*
- *Providing micro social groups to form safety and security besides spending leisure time usefully*
- *Training of peers to transfer knowledge in the group (among other things word-of-mouth, awareness raising materials in schools and foster homes)*
- *Development and expansion of cross-border cooperation.*
- Criminal prosecution
- *Every suspicion of THB shall be reported to the Office of Public Prosecutor*
- *Testimonies of affected people should not be the only evidence in criminal proceedings.*

- Ensuring communication in different languages, guarantee of interpretation and translation.

## 8) CONCLUSIONS

This study very well illustrates that we are only able to find presumed Hungarian victims of forced criminal activities. The phenomenon is officially not considered as a form of exploitation or trafficking. The study introduces the legal framework, identification, referral and assistance of victims of trafficking.

Hungary is primarily a country of origin and transition among the European countries. Hungary has relatively few immigrants in comparison with other, Western-European countries. Extreme poverty – similarly to the third-countries – is largely present on the whole area of Hungary, especially in the Eastern, North-Eastern and South-Western territories. At these areas of the country, misery and lack of positive expectations for the future are very similar to living circumstances in the third-countries. Victimization is most common in deserted areas and in villages, in cities where extreme poverty exists. Therefore, Hungary has a unique role in the European stage of human trafficking. It is largely a country of origin, so its task is to rehabilitate and reintegrate repatriated victims into society, however we still opposed to follow EU regulations that are mostly designed for destination countries. Third-country nationals use Hungary mainly as a transit country – it is 90% typical in case of unaccompanied children travelling through Hungary.

### a) Significant changes on legislation

In the past three years Hungary has made significant changes in the fight against human trafficking. Such as the Government Decree on identification. This area has been the most disorganized area in Hungary: the identification procedure of victims was not regulated; there was no official order of identification or generally used indicators. Identification was done by civil organizations,

OKIT and the police by using their own, unofficial indicators. Since the statute about identification is pretty new, it is still early to report on the measurement of its practical use.

In case of third-country nationals, there is no practice of using any particular method or protocol for the identification of victims of human trafficking. Forced criminal activities provable only occurred as an associate activity when one is a victim of sexual or labour exploitation. This shortcoming is clearly visible in the study. Hungary generates tens of thousands of victims for human trafficking. Large numbers of these victims are present within the borders and several thousand migrate to Switzerland, the Netherlands, Germany, Italy, Spain, Great Britain, Belgium, Austria, etc. Helping Hungarian victims, protecting their rights and interests and strengthening the fight against human trafficking, including changing the attitude of the society, are great challenges in Hungary for official and civil organizations equally.

The other significant step in legislation on trafficking is the modifications of the new Criminal Code. The new legislation on THB become into force on 1 July 2013. The former legislation on THB (Act. 175/B) focused on the commercial act, the exchange, selling, buying of human beings. The regulation emphasized the activities not the aim of the crime. Therefore, police and prosecution used the replacing types of criminal activities such as pimp, living on earning of prostitution. The new legislation on THB (Act 192) focuses on the activities that exploit other human beings. It is modified according to EU Directive: 2011/36/EU of The European Parliament and of the Council of 5<sup>th</sup> April 2011 on preventing and combating trafficking in human beings and protecting its victims, replacing Council Framework Decision 2002/629/JHA. Hungary prepared the modification and ratified the new law instrument in time on 6<sup>th</sup> April 2013. The Criminal Code came into action on 1<sup>st</sup> July 2013. The new regulation has an overall interpretation of exploitation that results foreseeably more THB cases. The punishment for trafficking in Hungary used to be up

to three years in prison. The modified Criminal Code regulates up to five years in prison in case of exploitation and in qualified cases (such as violence, threat, in form of criminal group, running as a business, underage victims, etc.) the punishment could go up to twenty years or lifelong in prison. In cases of criminal organizations the upper limit of punishment can be duplicated.

Other forms of criminal activities that belong to THB are the following in the new Criminal Code

- *Forced Labour §193*
- *Violation in personal freedom §194*
- *Sexual violation/Rape §196, §197*
- *Pimping §200*
- *Support of prostitution §201*
- *Living on earnings of prostitution §202*
- *Violation related to children prostitution/pornography §203, §204*

### b) Assistance

The solution of this problem carries with itself the circumstance that forced criminal activity does not occur in jurisdictions. Therefore victims are not assisted. The presently operating shelters exclusively house adult women. These women are victims of sexual exploitation; they represent 90% of victims of human trafficking.

Men becoming victims of forced labour have no officially organized protected accommodation. Men are much more jeopardized to become involved into forced criminal activities for being lonely and often are weaker to refuse alcohol.

Most of foreign refugees and transferring migrants are men, almost every single unaccompanied child travelling through is a boy. Even if there are victims of human trafficking among them, they are not brought to the attention of organizations in the field that provide professional assistance for other victims of human trafficking in Hungary. The Office of Immigration and Nationality and the organizations fighting against human trafficking have no official contract of cooperation. The Office performs a refugee procedure in the case of

victims of human trafficking and they are then transferred to refugee camps. The civil organizations providing special services for victims are not prepared for receiving aliens and would not be able to provide effective professional assistance for them. Homes for unaccompanied children are good examples of what kind of preparation it takes to effectively provide for foreign victims. The service for foreign refugees lacks state provided psychosocial help that would make crisis intervention and rehabilitation possible and would also help draw the attention of professionals to victims of human trafficking entering the procedure.

### c) Presence of forced criminal activities

After the general country report on legislation and practice of trafficking issues in Hungary, the greatest amount of information about forced criminal activities were gathered in the interviews with victims. In three cases of domestic servitude (two men, one woman) clearly showed that all victims were forced to steal and rub. Also, children in the juvenile correctional facilities clearly claimed several occasions when they were forced or persuaded to commit smaller crimes. The methods, threats are similar to forcing one to e.g. provide sexual services.

Office of the Prosecutor General Division for Juvenile Crime Cases reported no forced cases in terms of minor perpetrators just as the Department of Child and Young criminals of the National Police. In their cases all minors were voluntarily involved into different criminal activities. The interviews with policemen proved that the researched phenomenon does exist, however; they have a difficulty to prove it. Most of the time if a perpetrator is found out to be under some influence or force of someone else, perpetrators become released and case is closed. There is no assistance is provided in this case to the victim.

It is essential to educate experts in the field and bring the phenomenon in minds as a possible form of exploitation. The most jeopardized target group is mi-

nors living under satisfactory conditions and circumstances, further, those who live and grow up in foster homes. Prevention is a must with the involvement of creating proper and secure micro social communities for these children to belong to. Also there is a great need of providing future plans an several possibilities in the education.



## NATIONAL RESEARCHES ON FORCED CRIMINAL ACTIVITIES AS A NEW FORM OF EXPLOITATION IN HUMAN TRAFFICKING

### 3) ITALY<sup>30</sup>

#### 1) GENERAL FRAMEWORK ON TRAFFICKING IN ITALY

While Italy may be considered as a destination Country for trafficked and smuggled migrants, it is also a transit State for many foreigners who are the victims of exploitation in other European Union Member States. Research on the criminal phenomenon of human trafficking in Italy shows that women are mostly involved in sexual exploitation, forced mostly into prostitution; men are often trafficked for the purpose of forced labour, while children – of both sexes – are exploited and forced into prostitution, to beg and into criminal activities. In the past years, the phenomenon also involves transgender in terms of sexual exploitation, male prostitution is also on the rise.

Victims of trafficking and exploitation come from different countries: Romania, Nigeria, Albania, Moldova, Russia, Ukraine, Bulgaria, China, Ghana, Bangladesh and, to a lesser extent, Belarus, Brazil, Colombia, Pakistan, Ecuador, Senegal, Mali, Turkey, Tunisia, Hungary, Morocco and other countries. Victims of trafficking for the purpose of sexual exploitation are generally aged between 18 and 30, even though more and more trafficked minors are being detected. Generally, those involved in labour exploitation, and sometimes begging, especially if disabled, are older, while the younger victims tend to be involved in the market for sex, in forced begging and forced criminal activities.

Currently in Italy, the victims of traf-

ficking pass through the same channels and fall into the same mechanisms used to smuggle irregular and humanitarian migrants into Italy. In most cases, smuggling and trafficking operations, while legally different, are practically indiscernible. In fact, Italy has mixed flows of migrants that comprise of distinct types of migrants: economic migrants, migrants seeking international protection (asylum or other forms of protection) and victims of trafficking who are more difficult to identify and detect due mainly to the intermix of very different migrant profiles and to the limits in the laws and in social classification adopted today in identifying different groups of migrants.

In the early 1990s, the “human trafficking” trade fell into two distinct, specialized sectors: “trafficking” and “smuggling”. A clear distinction between these two phenomena, in terms of the subjects involved, the characteristics of migration projects, the modes of transportation to the destination Country, which have led the international community to opt for sanctions and a definition of criminal offences<sup>31</sup> However, a legal distinction between “trafficking” and “smuggling” no longer fits the complexity and variety of social relations between irregular migrants and those who exploit them.

The current situation in Italy is further complicated by the migratory movement of people seeking international protection, namely humanitarian migrants. In fleeing from countries affected by complex emergencies, these individuals reach Italy or other European countries using the same routes and the same criminal organizations that smuggle “economic migrants” and transfer victims of trafficking. Hence, if at the end of the 1990's, the distinction between trafficking and smuggling addressed the need to distinguish two criminal conducts which had developed in the framework of different criminal

organizations, today, reference to international, European and national law may seem counterproductive when confronted with the need to critically deconstruct the dominant human trafficking discourse.

In other words, at present, in applying the Laws enforced at different levels, it has become more and more difficult to distinguish between the reality of individuals and that of migration experiences. The risk is to adhere statically to some legal representations of phenomena which have changed over the years, altering some of the basic features on which the norms themselves are based.

Moreover, an increasing number of smuggled migrants has been noted. They enter Italy to become the victims of trafficking or of severe exploitation, following pretty much the same course and form as those that are being currently adopted by traffickers, international protection or unaccompanied minors, this is especially the case with young Nigerian women or children.<sup>32</sup>

Regarding situations that encourage illegal immigration, the punitive response adopted in many European jurisdictions, including Italy, has evolved over the years into a repressive one. This approach has penalized victims of trafficking who have become even more invisible, at least as long as no physical exploitation takes place, making its exposure and victimization, at least to experts, easier to observe and detect. Although traffickers constantly change their route to reach Italy in order to elude the repressive measures adopted by law enforcement agencies, some of the travel routes they use continue to be used quite efficiently.

Starting 2010, southern Italy, along with other islands (especially the island of Lampedusa and some areas of Sicily, Pozzallo in particular) experienced a significant increase in the number of

sea arrivals with migrants coming from the southern shores of the Mediterranean, fleeing conflicts or a political crisis that affects many countries of the Middle East. The consistently high number of migration flows also sees people coming from sub-Saharan Africa and from countries in the Horn of Africa, namely groups of individuals which are significantly different in terms of nationality and in terms of the country of departure. The composition, in terms of migrant type, is therefore a hybrid. Currently, in Italy, the above mentioned group is perhaps the one that experiences gravest forms of exploitation. The arrival of an ever growing number of foreigners from non-EU countries coming from areas of conflict and places of political unrest and seeking international protection means that those who manage this type of activities are very likely to end up exploiting this segment of migrants. This is not only true for prostitution but also for labour, prevalently in agriculture and domestic services, forced criminal activities and forced begging.

Many elements indicate that some segments of migrants, including minors, defined primarily by nationality, are vulnerable and may be forced to commit criminal activities, especially drug dealing, the sale of counterfeit products, theft and fraud. Accentuated by an ongoing global economic crisis, the main factors which propel people to migrate and, in some cases, make them vulnerable to trafficking, continue to be poverty, unemployment, gender and ethnic discriminations, inadequate welfare and development policies, the failure or absence of migration policies, regional conflicts, the desire for economic, social and cultural emancipation, the demand for unskilled labour used in a competitive production cycle. In most cases, the migration project begins with the migrant's voluntary decision to depart. Their departure rarely results from

coercion. Quite often, the debt bondage contracted with third parties, which enabled them to leave their country of origin, plays a pivotal role in making them vulnerable to trafficking. The organization of criminal networks and of individuals, along with the recruitment, control and exploitation methods have changed. Trafficking processes are now frequently managed by criminal organizations rooted deeply in destination countries. Such organizations have transnational connections that combine both trafficking and exploitation with other illegal activities (smuggling, drug and arms trafficking) as well as legal activities (for example: money laundering through regular commercial activities).

Airports appear to be used as ports of entry for situations that involve a seasonal presence or even negotiated situations related to the exploitation. This is especially true for Roma groups, associated mainly with begging. Forced labour as a form of human trafficking is a phenomenon that Italy has had to deal with recently. In fact, surveys designed to gain greater insight and action plans aimed at assisting victims have been developed in the past 6-7 years. As a matter of fact, it was not until 2006 that social protection programs started accommodating trafficked victims of labour exploitation.

Although men are the ones who are most trafficked for labour exploitation in Italy, the phenomenon, has started to encompass women as well, and is taking on particular characteristics. Women appear to be involved mostly in domestic work as caregivers, often paid cash, without a residency permit, subjected to unfair working conditions and remuneration, possibly violating their human rights. Studies in the field<sup>33</sup> have documented all of the above.

Over the past few years, “new” forms of trafficking for forced begging and criminal activities were observed,

together with cases of victims different forms of exploitation (i.e.: women forced into prostitution and drug dealing; men forced to sell retail merchandise, beg and deal drug or into prostitution)<sup>34</sup>. This aspect of severe exploitation deserves greater research, especially since many operators still do not seem to be adequately prepared for the changes which have affected human trafficking. In fact, such situations in which specific circumstances like distress and poverty, and perhaps the fact that exploiters are not specialized in any particular criminal activity leads to an exploitation of the victims in multiple fields. These forms of exploitation are more likely to emerge than others owing to the contacts that may be established between the potential victim and service providers for the homeless, mobile health units, and public canteens. Moreover, these victims may be intercepted by law enforcement agencies more frequently than others thanks to the reports filed by ordinary citizens.

In considering the areas of exploitation, particular attention should go to underage foreigners involved in illegal activities. Most of them are males, but some are females that fall into two age groups: under-fourteen and adolescents. These minors tend to belong to a complex social context. They want to leave their reality to fulfill their dream or/and to give economic support to their families. Although children often seem to cope remarkably well with adversities, regardless of the literacy rate, their low level of education undoubtedly represents a vulnerability factor.

While illiteracy does not seem to be a dynamic that leads to exploitation, the lack of school education may expose the child more to such environments (as the street) and contacts that, in conjunction with other circumstances of social discomfort, marginalization and a strong need to free oneself from oppressive cultural situations, increases the risk of falling into the hands of trafficking networks, especially in situations of migration of unaccompanied minors who have no support from family members.

A number of reasons may lead a child to leave his/her Country of origin. The child may be sold or rented to third parties by the family; he/she could be sent abroad by the family or leave without a shared project with the family; or, again, the minor may move together with the family. The presence or absence of the family in Italy is a variable that okays a significant role on the minor's living conditions: unaccompanied minors involved in forced criminal activities, prostitution and begging, regardless of the level of exploitation, live in shared accommodation, often with poor conditions of hygiene and no heating. Obviously, living in such degradation may contribute to the subjugation of minors within mechanisms of exploitation. Through persuasion and sometimes violence, minors fall prey to traffickers and are involved in illegal activities. Even in such case, as in the case of abuses related to forced labour, violence is often accompanied by the fact that victims do not identify themselves as being exploited.

The issue of unaccompanied foreign minors (UM) victims of trafficking is a significant part of the wider phenomenon of trafficking in human beings. On 30 June 2014, 9,769 UM were reported in Italy (out of this number, 7,775 are those whose whereabouts are known). Most of them are adolescents (93%) or just under age (76% declares to be 16 or 17 years old). In terms of geographical origin, unaccompanied minors come mostly from Egypt (20%), Eritrea (13.7%), Albania (11.8%) and Somalia (10.9%). More than 44% of UM come into Italy through irregular sea migration. In addition, minors constitute 5.6% of all migrants that have arrived to Italy: on 30 June 2014, out of a total of

61,585 migrants who had reached Italy by sea, 3,451 were foreign unaccompanied minors. Compared to the previous year, the increase in the arrival of foreign unaccompanied minors has more than tripled in 2014<sup>35</sup>. Most underage migrants are boys (almost 93%), aged between 16 and 17 years (almost 72%), mainly from Eritrea (31.4%), Somalia (17.3%), Egypt (15.2%) and the Gambia (13.9%)<sup>36</sup>.

#### a) National anti-trafficking legislation and institutions

With the adoption of law 228/2003 "Measures against trafficking in persons" human trafficking has become a serious offence in Italy under its criminal code (art. 601). The definition of human trafficking, stated in the Italian legal framework, fully complies with the main elements of the 2000 Protocol that prevents, suppresses and punishes trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organized crime. Under the Italian criminal code, any attempt to commit the crime of human trafficking is also punished, whereas trafficking of minors is subject to an aggravated sentence.

Among the measures introduced by l. 228/2003, one that deserves mention is the compulsory confiscation of profits deriving from trafficking and the funding, by the Department of Equal Opportunities, of "Article 13 Programme", namely a special three-month assistance programme (extendable up to three months). In general terms, Italian legislation, according to the latest amendments to Articles 600 and 601 of the criminal code, is well suited to combat human trafficking. In this sense, especially after the adoption, in 2014, of the law that implements Directive 2011/36, the Italian legislation is in compliance with EU legislation.

On the issue of protecting irregular alien from labour exploitation, Legislative Decree 109/2012, implementing EU Directive 2009/52, introduces heavier sanctions for the employers as well as the chance to grant a residence permit to foreign national workers who undergo particular forms of labour exploitation (i.e.: when the victim

is under 16 or s/he is exposed to serious dangers related to the type of work and conditions) in an effort to report their employers to the police and to cooperate with law enforcement agencies.

Since 1998, on the issue of victim protection, Italian legislation has introduced a specific norm, namely Article 18 of the Consolidated Law on Immigration (Legislative Decree 286/98) entitled "Residence permit for reasons of social protection". The latter foresees the granting of a residence permit "whenever police operations, investigations or court proceedings involving any of the offences set out in art. 3 of Law 75 (1958), or in art. 380 of the Code of Criminal Procedure, or whenever social services of a local administration, in carrying out their social assistance work, identify situations of abuse or severe exploitation of a foreign citizen, and whenever the safety of the foreign citizen is seen to be endangered as a consequence of attempts to escape from the conditioning of a criminal organization which engages in one of the afore-cited offences, or as a consequence of statements made during preliminary investigation or in the course of court proceedings, then the chief of police, also acting on the proposal of the Public Prosecutor, or with the favourable opinion of the Public Prosecutor, may grant a special residence permit enabling the foreign citizen to escape from the situation of abuse and conditioning perpetrated by the criminal organization and obtain social assistance and undergo an integration programme". Victims of human trafficking may therefore benefit from such measures through a judicial path (if the victim decides to cooperate with judicial and police authority during investigations and criminal proceedings against traffickers) or a social path (in cases of violence or serious exploitation, regardless of the victim's will to testify). These measures are integrated by Art. 13, Law no. 228 of 11 August 2003, which sets up a special assistance program to victims of crimes under Articles 600 and 601 of the Criminal Code whose aim is to temporarily guarantee to potential victims adequate housing, food and health care for their physical and psychological recovery. In contrast, the programme under Article 18 is directed mostly towards the assistan-

ce and the social integration of potential victims in more general terms. However, to activate such programmes, what must be established is to see if the individual is an actual victim of violence or severe exploitation coupled with whether s/he is exposed to actual dangers for her/his safety.

While the Italian legislation does not formally have a reflection period, the latter, in practice, is guaranteed by Art. 13 of Law 228. A reflection period is in fact, informally granted as those involved in situations of severe exploitation, once the initial 3 month period in this system elapses, normally transit into programmes under Article 18. Both assistance programmes (Article 13 and 18) are coordinated and managed by the Department of Equal Opportunities established within the Prime Minister's Office. Yearly, the Department publishes a call for proposals related to the implementation of both programmes.

From a systemic intervention perspective, the Legislative Decree of 4 March 2014, n. 24, implementation of Directive 2011/36/EU, pursuing an integrated approach promoted by the EU Directive itself, on the one hand makes a number of criminal law provisions on improving the system and combating trafficking in human; on the other, a number of provisions that protect the victims.

Among the latest amendments to the Italian legislation, one notable provision is the one on the protection of unaccompanied foreign minors and victims of trafficking. In accordance with the provisions of the EU Directive, Art. 4 legislative decree of 4 March 2014, n. 24, establishes that, when conclusive presumption or determination of age cannot be established, the potential victims shall be presumed to be a child. Another article worth recalling is Article 10 of the same legislative provision on the need to link the systems that protect trafficked victims to those that protect and assist individuals seeking international protection.

Recently, law 94/2009 introduces a new crime, punishing the exploitation of minors in begging (Article 600-octies, criminal code). More specifically, this provision not only punishes anyone who exploits minors (under 14 or under the age of crimi-

nal responsibility) into begging or allows them to beg, but also anyone (who has a minor under his/her own authority, custody or surveillance) who allows that minor to be exploited and forced into begging. This provision despite being connected to the phenomenon analysed herein cannot formally be considered a measure against trafficking but instead a measure against the exploitation of minors. In the past, before 2009, forcing minors to beg was only a misdemeanour.

Relatively to the present human rights trafficking law, particular mention should go to the Council of Europe Convention on Action against Trafficking in Human Beings, signed in Warsaw on 16 May 2005, ratified by Italy with law n. 108 of 2 July 2010. At present, therefore, based on the current regulatory framework, the measures towards the protection of victims of trafficking and severe exploitation must first of all derive from the legislative decree 24/2014 that is currently in force also adopting the constitutionally oriented interpretation of Italian legislation considering the provisions of the EU Directive 2011/36 and the Convention of the Council of Europe

To this end, the adequate and effective measures that should be promoted to protect the victims of trafficking include the following:

- in compliance with Art. 11(4) of the EU Directive 2011/36, Guidelines for the early identification of victims of trafficking should be drawn up, taking into consideration the "position of vulnerability" mentioned in Art. 2(2) of the Directive, an element that has not been sufficiently considered in the Legislative Decree no. 24/2014;

- the establishment of a National Referral Mechanism, still missing to date, that defines the forms of cooperation among the State actors involved so as to guarantee the fulfilment of their obligations to protect and promote the human rights of trafficked persons, in a strategic partnership with civil society;

- updating assistance measures to respond to a changing phenomena and to victims;

- multi-agency training for different subjects who are likely to come into con-

tact with the victims of trafficking to properly identify them;

- adoption of specific guidelines on the obligation to provide information to the victims, as set out by Art. 11 of EU Directive 2011/36, especially concerning their right to a residence permit, according to Art. 18 of Legislative Decree 286/1998 and their right to apply for international protection; such guidelines should encourage a coordinated system for the protection of victims of trafficking and those seeking international protection, also pursuant to EU Directive 2013/33 and Art. 10 of Legislative Decree 24/2014.

Directive 2011/36 and the legislative decree implementing its measures foresee a referral mechanism linked to the international protection system, when necessary.

Italy's reception system for migrants comprises, at the first level, of 14 Initial Reception Centres, First Aid and Reception Centres. These structures provide first aid to migrants arriving to Italy by sea. After their identification, asylum seekers are hosted for an initial period (from 20 to 35 days depending on the influx of migrants) in specific Reception Centres for Asylum Seekers (CARA). These centres are open to visitors and guests are allowed to leave the centre during the day. CARA centres also provide legal assistance, Italian language teaching, healthcare, food and other essential goods. Asylum seekers housed in CARAs have the right to receive visits from UNHCR representatives, NGOs and institutions promoting the protection of the rights of asylum seekers, lawyers, family members or Italian nationals who have been authorized by the competent *Prefettura*.

The same reception conditions are guaranteed to all asylum seekers, including to those who move to Italy in under the "Dublin" Regulation. At their arrival, specific services are available from the main airports, including Reception Centres. If the EU Country they arrive from specifies their vulnerability, appropriate healthcare measures are provided.

After an initial period in CARAs, refugees and international protection seekers are hosted in the Protection System for Asylum Seekers and Refugees (SPRAR),



managed by local authorities, governed at the central level by the National Association of Italian Municipalities (ANCI) and the Ministry of the Interior, and financed through the National Fund for Asylum Policies and Services (FNPSA). The network relies on facilities (flats, community centres, accommodations), where refugees in need of international protection are hosted for 6 months (extendable if necessary). The network provides additional services that include language courses, cultural mediation, job orientation, multicultural activities and legal aid. In 2013 its capacity increased from 3,000 to 9,500 places. By June 2014, 15,000 people were assisted and the number will increase to 19,000 by the end of the year. A special Fund of €190 million was allocated in 2013 to support the exceptional inflow of migrants. In 2013, Italy had 28,300 asylum-seekers coming from: Nigeria (3,655); Pakistan (3,353); Somalia (2,828); Eritrea (2,202); Afghanistan (2,155). Territorial Commissions examined 25,838 applications and granted refugee status, subsidiary protection and humanitarian protection respectively to 3,144, 5,654, and 7,458. 20 Territorial Commissions are currently working to grant international protection to migrants in order to improve the management of applications for international protection; the establishment of new Commissions is also being considered. In the first 4 months of 2014, 15,223 requests were recorded, twice as many compared to 2013 (6,515).

The Praesidium project (implemented together with UNHCR, IOM Save the Children and the Italian Red Cross, with the support of the Italian Ministry of the Interior) contributes to a protection-sensitive reception system for aliens arriving by sea, in the context of irregular migratory flows to southern Italy. Launched in 2006, Praesidium (operating since 2012 in all Reception Centres) has proved to be an effective operational model and is regarded as a best practice at the EU level.

The Italian Red Cross (IRC) monitors health assistance standards and carries out, together with the health units operating in the facilities, activities and procedures targeted to improve health conditions. The IRC also provides guidance and information on health education, distributing

material in several languages. Save the Children, involved in this project since 2008, offers legal and cultural mediation services for minors and support and care related activities in the shelters and in dedicated Centres. In cooperation with the Ministry of the Interior, the four organizations focus on the most vulnerable categories of migrants for instance women and UAMs (unaccompanied minors).

To conclude, in reference to forced criminal exploitation, the first consideration that needs to be made is the lack of specific criminal law provisions. In this regard, it should be noted that Italy has not introduced any provisions, excluding the prosecution or punishment of victims for the criminal activities they have been forced to commit as a direct consequence of being victims of trafficking. This element, evidently, represents a limit in identifying potential victims involved in this particular form of exploitation thanks to the use of exonerating circumstances that may foster cooperation in the early stages of investigation.

In other words, in implementing the EU Directive 2011/36, Italy opted not to transpose the “non-punishment provision”, which is also enshrined in the CoE Convention. Both legal instruments confers each Member State the possibility of not imposing penalties on victims for their involvement in unlawful activities (that is in the acts referred to in Article 2 of the Directive 2011/36), to the extent that they have been compelled to do so, in accordance with the basic principles of its legal system.

#### **b) Public policies, national referral mechanisms, national rapporteur**

Despite the comprehensive legal framework described above, in Italy there is no National Action Plan on trafficking in human beings. Currently, the Italian Government is working on a holistic document on human trafficking, defining the policies and the governance of the general system for the protection of the victims. Such effort should lead to the adoption of the first National Action Plan, as mandated by Legislative Decree n. 24 of 4

March 2014, implementing EU Directive 2011/36/EU.

Moreover, differently from what is provided for by the CoE Convention, Italy still lacks a national coordinating body on human trafficking. Art. 7 of the recently adopted Legislative Decree 24/2014 establishes that the Ministry of Equal Opportunity of the Prime Minister’s Office is the body that coordinates functions, more specifically: a) addressing and coordinating preventive interventions addressing the social dimension of the phenomenon of trafficking in human beings and assistance to victims, as well as managing the financial resources to implement assistance and social integration programmes; b) assessing the trends on the phenomenon of human trafficking, through an adequate monitoring system that gathers and collects data, in collaboration with other public authorities and with civil society organizations working to contrast human trafficking; c) presentation of a biennial report to the EU Anti-trafficking Coordinator on the results concerning the monitoring that was carried out, based on the data provided through the above mentioned system.

In other words, the Ministry for Equal Opportunities set up within the Italian Presidency of the Council of Ministers is in charge of the overall coordination, of the monitoring and evaluation of national policies to prevent, counter and provide social protection to the victims of trafficking. This newly adopted legislative decree confers a key role to this body in the domain of national policies that addresses human trafficking. In particular, the Department has the role of steering and coordinating the area of social prevention and assistance to the victims, as well as managing the financial resources to assist and encourage the social reintegration of victims.

This legal provision de facto increases the functional role and responsibilities of the Ministry of Equal Opportunities, which had already been developed in projects activated in the framework of “Article 13” and “Article 18” programmes for the protection of persons involved in situations of severe exploitation.

In addition to these programmes, since 1999, a “National Anti-Trafficking Toll-

Free Helpline” was established to operate as a “system action”. The Free Helpline was conceived as a support to facilitate the coordination and realization of such assistance projects. Such “system action” is laid down in the Ministerial Decree of 23 November 1999 whose Art. 2, paragraph 2 establishes that, to ensure an effective national response that prevents trafficking, “projects of national relevance whose activities focus on information and awareness raising need to be conceived; trafficking surveys and research on the consistency and on the trends of the phenomenon; interventions aimed at activating, updating and managing information networks among institutions to interconnect and coordinate projects so as to combat the phenomenon.

According to a cooperation agreement among public administrations adopted pursuant to Art. 15 of Law 241/1990, the management of the National Anti-Trafficking Toll-Free Helpline has currently been entrusted to the Municipality of Venice. The Toll-Free Helpline (800-290-290) - operating 24 hours a day is a free, confidential and anonymous line that offers specialized help and a multilingual service that provides detailed information on legislation and on the services available to trafficked or exploited persons in Italy. Upon request, the staff may refer potential victims to the social and health services available under Article 13 (L. 228/03) and Article 18 programmes (Legislative Decree no. 286/98).

A national observatory was established in 2007 which, among other things, allowed the implementation of SIRIT (*Sistema Informatizzato di Raccolta Informazioni sulla Tratta* – a Computerized data collection system on trafficking in human beings), a system that, not only monitors and collects data related to the projects funded by the Ministry for Equal Opportunities, but it could become the basis to create a national information system on human trafficking.

Another point that deserves mention is that in 1999, the Prime Minister’s Office – the Department for Equal Opportunities created an Inter-ministerial Committee for the implementation of “Article 18”. Renamed in 2007 the Inter-ministerial Committee for the support of victims of trafficking,

violence and exploitation, this body coordinates programmes for victim protection. Supported for a certain period by a Technical Panel to draft the Nation Action Plan on anti-trafficking, the Inter-ministerial Committee no longer exists.

Regarding the identification phase, the protection of the victim’s rights, and the referral mechanism, Italy has neither a formal identification procedure, nor a defined set of indicators that can be used to develop a coherent procedure applicable at the territorial level. Be it as it may, it is important to recognize that, despite its lack of a central system to coordinate anti-human trafficking activities, in the past few years, the Government, in tandem with many local authorities, civil society organizations and other law enforcement agencies have been significantly engaged in combating the trafficking, thus protecting a relevant number numbers of victims in the EU. The work of all those who, for various reasons, come in contact with this phenomenon, beyond the organizational, administrative and even operating deficits, implies that they need to cope with an ever growing number of exploitative situations. The reason is twofold: firstly, in Italy, exploitation is a serious phenomenon that affects many areas and is therefore numerically consistent; secondly, the political priority to fight irregular migration, at least in this particular moment in time, has put the issue of human trafficking in the forefront, putting it at the heart of the policy-making process. The synergy between the need to protect the victims and the need to fight trafficking linked to severe forms of exploitation of foreigners have gained greater legitimacy within the Italian institutional agenda compared to other European countries.

It should however be noted that this process was made possible thanks to the specific tools developed within the national legislation at the time. Specific reference on the issue should be made to Art. 18 of l. 286/1998 that, not being restricted to crimes of trafficking or enslavement, was applicable, with extreme flexibility, and, probably complied more with today’s mechanisms of exploitation and vulnerabilities.

#### **c) Identification, protection and referral for victims**

The question of bringing to the surface and the identification of victims of trafficking in cases of severe exploitation has always been crucial for an effective response in terms of both victim protection and to prevent trafficking. Over the years, despite the growing expertise of operators, the phases leading to the identification have become increasingly difficult due to the ever changing characteristics of migration, the hybridizations of today’s migratory flows into Italy, the greater complexity of scenarios and areas of exploitation, as well as the more persuasive and less explicitly violent methods used to subjugate the victims.

If on the one hand, a distinction must be made between victims and irregular migrants, between trafficking, smuggling or other autonomous forms of irregular migration, on the other, these categories prove increasingly inadequate to represent today’s phenomenon. More and more frequently, it is after their arrival to Italy that individuals become the victims of conditions of vulnerability that will lead to severe forms of exploitation; alternatively, individuals may become the victims of trafficking while on their journey to the destination country, even if when leaving their country they may have qualified as humanitarian or economic migrants.

The identification phase is therefore difficult and can take quite some time. However, this does not prevent properly trained operators to correctly identify, already in the first phase, a number of indicators that may point to a situation of trafficking. The procedures and practices that allow the identification of the victims to surface are crucial to deliver social protection programmes. The identification process is therefore crucial for any further criminal investigation and to adopt the most suited protective measures ensured by law, and, in some cases, the activation of investigating activities, especially if the crime is still under cover or still in the preparatory phase. But it is not until exploitation takes place that trafficking often becomes “visible”. As criminal organizations cannot

help but to put their “assets” onto the market to generate profits, making the victims the “weak link” of the criminal circuit.

Based on the above considerations, operating practices, designed to promote an integration between public and private networks (i.e. “multi-agency work”) should be based on a shared common assessment embodying all the different elements gathered by the operators when they came in contact with the potential victim. This activity requires an initial interview with social workers and often the presence of a language/cultural mediator to ensure, on one hand, that investigators make a preliminary evaluation to ascertain the reliability of the interviewee and gather any supporting evidence, on the other, to give the potential victim access to first assistance. This is instrumental in delivering to potential victim temporary assistance programmes (Article 13, l. 228/2003) or for long-term assistance and social inclusion (Art. 18, Legislative Decree 286/98), both associated to activities aimed at the issuance of the residence permit for social protection or, possibly, assisted repatriation.

At the local level, a number of operational protocols among police forces, public prosecutor office, health services, NGOs and other relevant actors have been signed. Such agreements contribute in defining the guidelines for the identification and referral of victims of severe exploitation. With regards to some specific areas of intervention, the protocols define standard operating procedures for the identification, referral and protection of victims of trafficking. In Italy, the system structure is devoted to safeguarding those who are vulnerable and are subjected to exploitation which reflects the mixed welfare culture, which sees a collaboration between public and private agencies. The programmes, established under national law, allow victims of trafficking to receive adequate, multifaceted protection, including personal safety, protection of human rights and access to services. If the cooperation among the different actors and institutions involved is effective, the system offers important guarantees in terms of protection and social reintegration.

At present, social protection programmes are assisting a consistent number of male victims of trafficking, involved mostly

in labour exploitation, forced begging and illegal criminal activities, while women and girls remain the largest group that is being assisted, trafficked mostly for sexual exploitation.

#### d) State of the Art: Trafficking for the purpose of forced criminal activities

Trafficking for forced criminal activities involves people – both minors and adults – who are mostly forced to deal drugs, pick-pockets, steal in houses and apartments, sell (often counterfeit) products on the street, favor illegal immigration, and, especially when a child is the victim, to commit social benefit frauds.

To date, in Italy, these forms of exploitation were not been appropriately monitored as it was not until recently that they have come to the forefront, owing perhaps to the obligations deriving from EU law as well as European Union guidelines on human trafficking. The data provided by the social protection programs and from police investigations has made it possible to identify and outline the generic features of trafficking, although further research and monitoring are still needed. At present, there are still no studies or sources to elaborate the profiles of adult victims trafficked and exploited for the purpose of forced criminal activities. A little more information, although not exhaustive, is instead available on children. In most cases, the minors involved in illegal activities are male foreigners from Eastern Europe, North Africa and South America. The number of female minors is lower, for the most part, they come from Romania, or have Roma origins, and are forced into stealing.

While children from Eastern Europe are predominantly involved in pick-pocketing and property thefts, minors from North Africa and South American seem to be used mostly for drug dealing in metropolitan areas. Recent observations point to the involvement of young Nigerian men forced to deal drugs in some Italian cities while young Albanians involved in drug dealing tend to be managed by criminal organizations that come from that country.

Recruitment methods and the areas of exploitation seem to vary based on nationality and, in the case of minors, on age. A sort of continuum of criminal activities

often sees the same person simultaneously or periodically exploited for different purposes, in different sectors, depending on the needs of the criminal organizations. Strikingly certain groups of victims may involve a mix of male prostitution (exercised by underage or young individuals) and criminal activities or forced begging. Conversely, for other nationalities both prostitution and begging may be excluded or at least significantly limited. In considering human trafficking associated with begging, the minors involved in illicit activities may arrive in Italy with their family, either alone (mandated or not by the family), or be entrusted to relatives/a third party, generally after payment. The living conditions observed among the different nationalities appear to be rather similar.

The presence or absence of the family will influence the conditions experienced by children. For example, Roma children generally live with their family in camps, while those from Morocco usually live in apartments with their families. Unaccompanied minors from North African and Romanian origin instead live in small groups and generally sleep in abandoned houses or factories, on the streets or under bridges. The precarious living conditions favour the involvement of such minors in illegal activities. Exploitation, thus, begins shortly after the child’s arrival to Italy, as she/he tries to find a way to live. Studies have shown that, especially in the case of unaccompanied children with little or no contact with their own compatriots or under the control of a third party, they are the most vulnerable to severe forms of exploitation or trafficking.

Even in the specific form of trafficking for the purpose of forced criminal activities, coercion is often exercised as the family incurs debts and must repay them in order to realize their migration project, as well as cover the cost for the room and board. Often, therefore, they are obliged to collect a daily amount of money set by the exploiter. The use of violence and psychological pressure is documented in many cases, for instance whenever someone refuses to steal, beg or deal drugs, or does not collect the amount of money required, or breaks the rules. In some cases, sexual abuse was also recorded. The organizations that manage forms of trafficking that involve children are generally smaller and less

structured than those dealing with other forms of trafficking. After a certain period of time, there may also be cases where the person who was first exploited starts taking on, even if partially, the role of controller of the “new generation” of victims.

Undeniably, exploration of this multifaceted phenomenon is by no means easy to distinguish. In fact, many situations of exploitation may not necessarily be classified as trafficking cases. Undoubtedly, further investigation of this form of trafficking is necessary, which focuses on the difficulties in identifying appropriate boundaries between the different types of exploitation and trafficking, cultural and family practices, and the respect for human rights. Only greater in-depth knowledge – related to shared interpretive categories- of the various constituent elements of the phenomenon of trafficking for the purpose of illegal activities will enable a distinction between cases of trafficking from other forms of exploitation.

#### e) Analysis

The Italian legislation complies with most of the requirements set out by the Council of Europe Convention and more recently the EU Directive. Trafficking in human beings is a distinct criminal offence with distinct penalties for all forms of the crime. This measure ensures that all potential situations of trafficking are punished. Italian law clearly distinguishes between the severe offence of trafficking in human beings, which constitutes a violation of human rights, and the crime of smuggling/facilitating illegal immigration, which is first and foremost a violation of Italy’s integrity as a State. Slavery represents another important crime.

In practical terms, the offence of trafficking cannot be applied in the same way throughout the country due to difficulties in proving this crime, especially in the case of specific nationalities of migrants and situations that cannot be classified as exploitation for the purpose of prostitution. Consequently, a public prosecutor will sometimes consider charging other offences that are easier to prove and which guarantee a heavy punishment which at the same time is not as heavy as the crime of trafficking.

In reporting data, the biggest bias that can occur in collecting data on trafficking is that it may be sketchy and not very useful. Moreover statistics are not easily available and the experts dedicated to gathering and processing the data are limited.

The National Antimafia Agency (*DNA – Direzione Nazionale Anti-mafia*) gathers data on criminal proceedings against trafficking in human beings, slavery, servitude and sale/purchase of slaves but with no interconnection to any databases on convictions. The DNA does not specify the rea-

son of those proceedings, making it is very difficult to understand the background pertaining to each case. The data collected on criminal proceedings confirm the number of criminal proceedings initiated, the number of victims, the number of people under trial. The data is distributed from each Anti-Mafia District Directorate (*DDA, Direzione Distrettuale Antimafia*). Information was collected by the DNA on trafficking in human beings, placing or holding a person in conditions of slavery or servitude, the sale and purchase of slaves is summarized in the following tables:

#### DNA Data

Art. 600 c.p. – Slavery, Country of Birth of suspects and victims			
1 July 2013 - 30 June 2014			
Country of Birth	Nr. suspects	Country of Birth	Nr. Victims
Romania	72	Romania	39
Italy	39	Italy	12
Albania	21	Nigeria	7
Morocco	9	Bulgaria	6
Bulgaria	6	Bangladesh	4
Nigeria	2	Albania	2
Poland	2	Morocco	2
Other Country	7	Other Country	8
Unspecified location	7	Unspecified location	48
<b>TOT</b>	<b>165</b>	<b>TOT</b>	<b>128</b>

Art. 601 c.p. – Trafficking and Slave trade, Country of Birth of suspects and victims			
1 July 2013 - 30 June 2014			
Country of Birth	Nr. suspects	Country of Birth	Nr. Victims
Romania	32	Romania	19
Albania	17	Eritrea	8
Morocco	5	Nigeria	7
Italy	4	Syria	7
Nigeria	3	Bulgaria	6
Pakistan	2	Italy	2
Other countries	3	Other countries	4
Unspecified location	4	Unspecified location	25
<b>TOT</b>	<b>70</b>	<b>TOT</b>	<b>78</b>

Art. 602 c.p. – Alienation and Purchase of slaves, Country of Birth of Suspects and Victims			
1 July 2013 - 30 June 2014			
Country of Birth	Nr. suspects	Country of Birth	Nr. Victims
Italy	4	Romania	1
Bulgaria	3	Location not specified	19
Romania	1		
Nigeria	1		
Unspecified location	6		
<b>TOT</b>	<b>15</b>	<b>TOT</b>	<b>20</b>



## 2) THE RESEARCH METHODOLOGY AND SOURCES

Research activity can be regarded as the starting point that connects the various areas of the TEMVI project. Our research on criminal forced activities therefore provides functional information and constitutes an initial overview on this specific form of severe exploitation.

The study, carried out in each Country involved in the Project, involves comparing the various practices used to discover, identify and assist the victims of trafficking. They will prove instrumental in developing an ideal-type prototype shared among each partner with the aim of improving the operative strategies and procedures aimed at protecting the victims of forced criminal activities. On the one hand, research activity therefore strives to improve the knowledge on the current trends in human trafficking, on the other, it seeks to work towards the adaptation of an intervention system which must come to terms with an ever more complex situation, as in the Italian case, of contexts where the group is made up of different national identities.

The research is based on available databases in Italy. In particular, the analysis hinges on the databases of assisted trafficking victims and severely exploited victims and of judicial cases - especially on children. The objective was to collect as much new information and data as possible on this phenomenon, existing research and insight and, to accompany those facts with a series of interviews and testimony of privileged witnesses and victims. Given the scant literature and information on the specific issue of trafficking for forced criminal activities, our research is exploratory. It merely seeks to broaden the spectrum of analysis as much as possible to gain greater insight on the characteristics of this phenomenon using different types of sources and instruments.

Interviews were thus designed to offer a general overview of the phenomenon collecting qualitative data on the victims, including the modes of entry into Italy and travel routes, the country of origin, the

means of subjugation and so on, as well as information on the form of exploitation adopted by traffickers. Collaboration between the operators and victim is crucial, in particular for the interviews involving minors. The aim of the study is not to create a sample of statistics but rather, to yield an analysis that presents a number of individual profiles that illustrate what may actually happen to the victims of trafficking, the core of this study.

The approach adopted to develop this report is based on the indications of organizations that, at different levels, work on promoting and protecting the rights of all people, in particular such groups as the Roma communities, together with a multi-agency approach.

The specific objectives of this research include: gaining insight on the phenomena of severe exploitation and trafficking generated for forced criminal exploitation in the various Countries; start a first monitoring of intervention systems designed to protect the victims of trafficking for the purpose of forced criminal exploitation to be able to identify the measures that effectively combat trafficking which can be included in a transnational prototype of best practices. Although the prototype focuses particularly on Roma minors, it can be adapted to different contexts and situations, depending on the situation of each Country.

According to participants, improved knowledge and instruments enable potential victims of trafficking and severe exploitation in forced criminal activities to come in contact with operators that work for the protection system as well as promoting the development of operative protocols that had to be preceded by research activity.

Obviously, a significant part of this activity is based on desk research, namely going through secondary sources such as specific literature, case-law and existing reports on trafficking for the purpose of forced criminal exploitation.

In drafting the report, particular attention went to the different, national and local actors involved in the topic that is being explored (national coordinating structures, services providers, law enforcement agencies, the judiciary and so on) operating in

different sectors such as:

- *Anti-trafficking system (at the and national level);*
- *National coordinating structure;*
- *Ministries, departments, etc;*
- *Anti-trafficking system (at the local level: geographic area must be outlined);*
- *Services providers, law enforcement agencies, the judiciary, health services, labour inspectorate, trade unions, etc;*
- *Protection system for unaccompanied foreign minors;*
- *Protection system for refugees and international protection seekers;*
- *Juvenile justice facilities.*

The selected experts or agencies were interviewed or asked to fill out a written questionnaire (sent by e-mail). Their response is twofold and it serves to differentiate the stakeholders involved and give due consideration to the relevance of the specific institutions working in the field of human trafficking or other related issues.

The schema of the interview/questionnaire, handed out to the various experts and operators involved, touched upon many aspects of the phenomenon as well as existing practices. Questions concerned, among other things, the victims' country of origin, travel routes to Italy (points of departure, countries of transit, characteristics of the journey), reasons for leaving their Country, description of the first stage of exploitation and the main conditions of vulnerability in the destination country. What was important for us, was to understand whether the exploitation in criminal activities constituted the main purpose of victims migratory project or, if instead, it was secondary to other forms of the trafficking.

Concerning the victim's profile (minors and adults belonging to the Roma community but also other ethnic groups), our investigation set itself the goal of gaining greater insight on the gender, age, sector of illegal activity (pick-pocketing, shoplifting, selling of counterfeit products, fraud, drug dealing) as well as other forms of exploitation (forced begging, prostitution, labour exploitation) that they may have been subjected to.

In addition, our research focused on the forms of recruitment and subjugation which are instrumental in understanding the *modus operandi* of exploiters and the level of organization of the criminal networks involved in this particular form of exploitation.

With regard to social operators, the study seeks to shed light on the services that the victims of trafficking use most commonly (outreach, low threshold services, public canteen, public showers) in order to understand the circumstances that lead to their emergence as well as the services they need.

## 3) CRIMINAL FORCED ACTIVITIES AS A NEW FORM OF TRAFFICKING

### a) Number of estimated victims, the groups involved, age and gender

According to SIRIT's database (Sistema Informatizzato per la raccolta di informazioni sulla tratta), the number of identified victims of trafficking for forced criminal activities in Italy stands at 233 (January 2010-February 2015). Of these, 178 are adults (109 males and 69 females) and 55, thus 23.6% of victims, are minors (18 males and 37 females).

While in the adult population, female victims account for 38.8%, in the minor population the percentage is much higher, that is 67.3%. Moreover, in the total male population, minors account only for 14.2% while in the total female population female minors account for 34.9%.

In relation to the age of the victims at the time their files entered SIRIT's database, data show that 30% are aged between 26-34, 21.5% between 35-45 and 19.7% between 18-21. As for minor victims, 92% are aged between 15-17 while only 8% are aged between 12-14.

No information is available on the possible Roma origin of the victims (both adults and minors).

### b) Countries of origin / Travel map

As for the nationality of victims, the top 5 countries are Morocco (18.5%), Nigeria (15%), Romania (14.6%), Tunisia (9.9%) and Egypt (6.9%). The number of Italian victims stands at 6.

	Adults		Minors		
Nationality	Male	Female	Male	Female	Tot.
Morocco	31	10	2	0	43
Nigeria	13	16	0	6	35
Romania	4	15	2	13	34
Tunisia	13	2	8	0	23
Egypt	14	0	2	0	16
China	8	1	0	0	9
Albania	5	2	0	0	7
Italy	0	3	0	3	6
Pakistan	6	0	0	0	6
Ukraine	0	4	0	2	6
Algeria	2	1	0	0	3
Serbia	0	2	1	2	5
Croatia	0	0	0	4	4
Bangladesh	1	0	2	0	3
Moldova	2	1	0	0	3
Others	10	12	1	7	30
	109	69	18	37	233

Interestingly, it can be noted that nationalities vary according to gender and age. In particular, when considering only the female victim population, the top 5 countries are Romania (26.4%), Nigeria (20.8%), Morocco (9.4%), Italy (5.7%) and Ukraine (5.75). Whereas for the male victim population, the top 5 are Morocco (26.0%), Tunisia (16.5%), Egypt (12.6%), Nigeria (10.2%) and China (6.3%). As for the country of origin of minors victims, data show that 44.4% of the male victims come from Tunisia, followed by Morocco, Romania, Egypt and Bangladesh (11.1%). Female victims, instead, come mainly from Romania, Nigeria, Croatia and Italy.

Nationality	Minors Male Victims	%
Tunisia	8	44.4
Morocco	2	11.1
Romania	2	11.1
Egypt	2	11.1
Bangladesh	2	11.1
Serbia	1	5.6
Senegal	1	5.6
	18	

Nationality	Minors Female Victims	%
Romania	13	35.1
Nigeria	6	16.2
Croatia	4	10.8
Italy	3	8.1
Ukraine	2	5.4
Serbia	2	5.4
Bosnia	2	5.4
Others	5	13.5
	37	

For 92% of the victims, from the outset, Italy was considered the country of destination, while for only 5% of them, it was regarded as a country of transit. In terms of journey, 60% of adult victims travelled alone, while the percentage decreases to 24% in minor victims. The victims that entered Italy irregularly stands at 51%. The data on the region of entry in Italy, relates to only 79 victims out of the 233. The Region of entry for 25% of victims is Sicily, for 19% of them is Friuli-Venezia-Giulia and for 13% is Lombardy.

Data on the transportation is available for 162 victims. Not surprisingly, 30% of the victims reached Italy by sea (33% of them came from Tunisia and 17% from Morocco), 25% by car (55% of them are from Romania and 25% from Morocco)

and 24% by plane (33% of them are from Morocco and 31% from Nigeria).

Only 38% of victims start to be exploited in the Region where they first arrive and only for 27.8% of victims the exploitation ends in the Region where they first arrived.

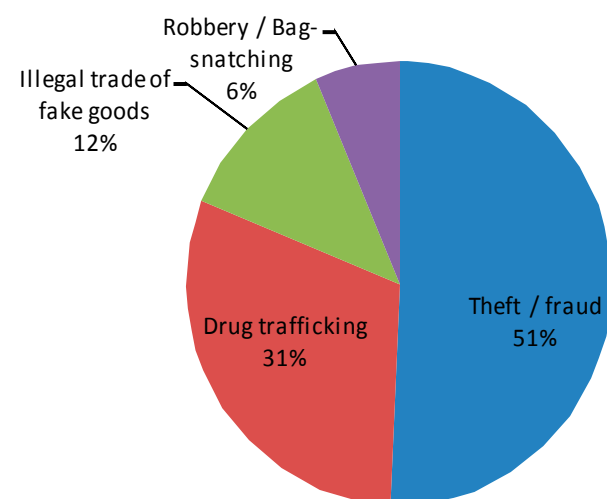
**c) Trafficking/exploitation, the causes that propel people to leave their country, the types of illegal activity and forms of recruitment**

Among the reasons for leaving their country of origin, the 2 main reasons included “a previously defined job offer” (21%) and “generic job search” (20%). Interestingly, in the case of female adult victims, while the prime reason for leaving remains the fact that they received defined job offers, almost 15% of them left the country as they were sold or trafficked and almost 15% left to join the partner or spouse. The data highlights that there is almost no case of criminal activities as the main purpose of the original migration project.

Reason for leaving the country	Adults		Minors		TOT	%
	M	F	M	F		
Already defined job offer	33	16	0	0	49	21
Job search	42	6	0	0	48	20
Other reasons	5	7	0	2	14	5.9
Family reunification	8	3	1	0	12	5.0
The person was sold or trafficked	0	10	1	1	12	5.0
The person joins the partner or spouse	0	10	0	0	10	4.2
The person went with friends/relatives	1	3	0	1	5	2.1
Not specified	25	12	16	33	86	36.1

Data show that in their Country of origin 50% of victims carried out no activity, 29% had a job while 14% were studying. In terms of educational levels, 46% of the victims have a low educational level, 33% a medium educational level and 12% are illiterate.

In relation to the sector of illegal activity, data show that half of the victims were active in theft and fraud, followed by drug trafficking (30.5%), illegal trade of fake goods (12.5%) and robbery/bag-snatching (6.4%). Interestingly, the predominance of the illegal sector does not change if adult and underage victims are considered separately, nor does it change if the data is analysed from a gender perspective. In applying a gender perspective to the population of minor victims, though, one can observe that minor female victims are employed mainly in theft and fraud (64.9%) while male victims in drug trafficking (50%).



In terms of predominance of specific nationalities within each category of criminal activity, one can observe the following:

Illegal trade of fake goods	
Nationality	% of victims
Nigeria	45
Morocco	24
Bangladesh	10
Senegal	7

Theft / fraud	
Nationality	% of victims
Morocco	23.7
Romania	23.7
Egypt	8.5
China	5.9

Robbery / Bag-snatching	
Nationality	% of victims
Romania	26.7
Albania	13.3
Morocco	6.7
Sri Lanka	6.7

Drug trafficking	
Nationality	% of victims
Tunisia	23.9
Nigeria	22.5
Morocco	9.9
Albania	7.0

As clearly evident, while some nationalities are linked mostly to only one or two specific forms of criminal activity (Tunisia is linked to drug trafficking, Romania to theft/fraud and robbery/bag-snatching, Nigeria with illegal trade of fake goods and drug trafficking), while other nationalities can be commonly found in all sectors (Morocco).

Out of the 233 victims of forced criminal activities, 156 (67%) are subjected to just one form of exploitation, 70 (30%) to 2 forms or exploitation and 7 (3%) to more than 3 forms of exploitation. Data show that those who are victims of more than one form of exploitation often end up combining their main criminal activities with sexual exploitation, exploitation in begging, and labour exploitation.

In terms of types of recruitment, 54% of victims were recruited through fraudulent promises, 41% through a fake job offer, 3% were sold and 1% was abducted.

While 78% of victims were exploited by members of the same nationality.

**d) The services used and outcomes**

It is worth noting that 60% of the victims who exited an exploitative situation did so through the contact and support of law enforcement agencies (40% with the Police, 12% with the Carabinieri, 6% with the Local Police and 2% with the Financial Police. Among those who exited an exploitative situation 14% managed thanks to a friend, 12% through local institutions, and 10% autonomously).

Of the 233 victims, 42 (18%) were charged with some criminal offence (no data is available on the charges) and 54% accused their exploiters.

Of the 86% who accused their exploiters, they did so because they had entered into a social protection programme. At the time of entry into the assistance programme, 61% of victims did not possess a valid residence permit, and 10% already had a residence permit to guarantee justice.

With reference to the duration of their stay in assistance programmes, 20% stayed in the programme for only one month and 9% even less time. The outcome of protec-

tion programmes vary considerably based on gender and age.

While 77.4% of male adult victims concluded their programme, the percentage significantly decreases when we consider female adult victims (38%), male minor victims (35.3%) and female minor victims 32%. And yet, in considering the percentage of victims who “leave or run away from the programme”, those who were “excluded from the programme for disciplinary reasons” and those who “left the programme after having started it”, the failure rate of individual assistance is quite high, especially for female minor victims (57%) and male minor victims (53%). For adult female victims the failure rate is 39%, while for male adult victims it stands at 17%.

As to the services, the most frequently used ones are “regular conversation/counselling with social workers” (88% of the victims), medical assistance (53%), welfare services (45%), legal counselling (42%) and language/cultural mediation (42%).

**4. INTERVIEWS**

This part of the report, and the considerations proposed herein are based on the information, comments and suggestions coming from the stakeholders interviews. The main assumption was that those who were interviewed, working in the field, can contribute, from their specific viewpoint, to outline the general framework that characterizes the phenomenon of trafficking for the purpose of forced criminal activities, integrating the literature and the data collected from existing databases. The following considerations are therefore based on the information provided by members of the judiciary, law enforcement operators involved in this project<sup>37</sup>, operators of the juvenile detention system, as well as operators of the anti-trafficking system, both in the public and private sector.

Firstly, the composition of foreign minors that enter in contact, at different levels, with the Italian judiciary system has changed. Over the years, the rate of unaccompanied and irregular minors has decreased. The same is true for Roma minors

in juvenile detention centers. In fact, of the latter group, most of those who enter into juvenile systems today are, in most cases, Italian or were born in Italy, with grandparents coming especially from Serbia, Croatia or Bosnia.

The phenomenon therefore involves both first and second generation migrants who have a specific bond within the Country. The ones with no contacts are very few. The minors involved are predominantly aged between 17 and 20 and, at least for those held in juvenile detention facilities, the level of education is higher than it used to be. As for gender balance within the juvenile system, a certain balance is observable, with perhaps a female prevalence, in relation to Roma minors, while minors of Italian or other origins are predominantly male (85%).

According to the information provided by the interviews to the stakeholders, little is known about whether these minors had already been involved in criminal activities in their country of origin, one can only assume that certain cases of involvement of minors in illegal activities results from a cultural learning process which, until a few years ago, represented an almost unavoidable passage in certain social dynamics. It is only recently that operators have observed minors committing their first offense at the age of 17, whereas in the past the criminal “career” would begin even before the age of criminal liability.

In the case of Roma, these situations are more prominent than, for instance, minors of Maghreb origin. Both groups, however, are characterized by situations of simultaneous involvement in illegal activities with other forms of exploitation such as begging, sexual exploitation and labour exploitation.

For Roma children, their departure from their country of origin may also stem from an autonomous choice, sometimes even against the will of the family. Conversely, the latter seems to play a crucial role in cases of minor girls sold to the husband’s family. The amount to be paid in such cases is established on the basis of different such canons as beauty (in the past) and the ability to steal. In such situations it is very difficult to discover who the true parents



are or to rebuild family bonds, especially when one or both parents are detained or are sick and minors are placed with cousins or other relatives, especially grandparents.

For certain segments of the Roma community, illegal activities were often a dominant reality. Recently however, there have been families which were not involved in any offense, unfortunately they are still a minority. The involvement of minors in illegal activities can be likened to a family tradition, as the act is often perceived as the only alternative.

Case studies on the Roma population living in southern areas of north-eastern Italy, revealed that criminal activities are considered a normal source of income. This, however, does not always mean that exploitation into forced criminal activities was the purpose of the migration project. Often, in fact, the exploitation starts at a later stage in the Country of destination or transit.

While there are children whose arrival in Italy is facilitated by following the instructions provided by acquaintances who live in their country of origin, others migrate with the idea of being able to economically support their family. The existence of a sort of "family plan" is credible and also relevant even for young people of Maghreb. Provided that their migration projects do not take place for reasons linked to an "incompatibility" with the cultural environment of origin, the migration of minors from Maghreb corresponds to a family investment. The debt incurred by the family to realize this project becomes the ground of exploitation, along with other situations related mostly to the minor's survival needs in a foreign country.

In general, a great obstacle in curbing these phenomena lies in the different interpretations, at the cultural level, of factual and symbolic realities of these young people. If education or employment for most Italians represent values of reference, this may not necessarily be true for the value system of Roma. Consequently, activities such as male prostitution by Roma minors (but not only), especially in large Roma camps, is considered acceptable because of its transitory nature, provided it excludes homosexuality.

In Roma communities, the great devotion and loyalty that members have towards family members makes it unlikely for them to be exploited by other groups as they operate within a family system. Roma children often live within an extended family and they do not appear to be victims of trafficking. Their journey to Italy is often organized by their family of origin, mostly by grandparents. These children move in different regions of the North, between the North and the Centre of Italy, rarely to the South, sometimes heading to France, but often settling down in rural areas of the Veneto region.

The possession of identity documents is very delicate. There are a number of minors that, while born in Italy from parents who were in turn born in Italy, are without Italian documents. Many of them report having lost their grandparents in the Yugoslav wars. Only some of their parents had regularized their position, acquiring either Italian citizenship or that of other former Yugoslavian countries. As a matter of fact, many Roma minors in Italy are "stateless" with no identity documents.

In preparing and implementing the journey, Roma adults sometimes report difficulties in getting the necessary documents as corruption in the countries of origin is pervasive. The most significant movements are registered in the summer (by sea), often coinciding with their return (often only parents) to their country of origin for trade purposes. On these occasions, children are often left with grandparents or older brothers. As for accommodation facilities, the children from the Roma group analysed herein normally live in camps or in ramshackle houses purchased by their family, which they either restructure or they live out of caravans in gardens.

The most plausible explanation for the exploitation of Roma children by their own family members is the need to contribute to the family's livelihood. Property thefts (in houses and shops) are the most commonly committed crimes. Should a victim react, their behaviour can degenerate into more serious offences such as robbery. Most often, however, the crime will be committed trying to avoid any reaction on the part of the victim. Roma children are also known

to steal copper, but have never been related to drug dealing crimes.

Interviews confirmed that all these children generally come from highly problematic family and social contexts, not only from the economic point of view, but also from the point of view of the deterioration of family relationships.

One aspect that emerged from the stakeholder interviews is the scarce knowledge on this phenomenon which, unlike other forms of exploitation, is peculiar since focus of the investigation underscores the illegal activities committed by these exploited victims rather than on its perpetrators, their exploiters. Firstly, there is the involvement of minors, considered per se as vulnerable under the Italian justice system. Moreover, in these circumstances, the minor presents a double edged vulnerability given the bond, as illustrated in the example presented herein, with the exploiter co-perpetrator, from whom the minor, is vulnerable and cannot dissociate.

In similar cases, there is also a status that strengthens their vulnerability since the legal system investigates the offender together with the author/victim of crime, forcing the latter to adopt a defensive stance. What may break this vicious cycle is the realization, on the part of the author/victim of crime, at some point, of the need to break the ties with those who are only apparently a co-perpetrator, but in reality are the exploiters. To do so, an intervention from those who are working in the field, thus the law enforcement agencies and the Judicial Police, is required since they can consciously operate towards this outcome, an approach that is not normally put in place when dealing with offences such as drug smuggling.

What also emerged is that currently, victims are forced into illegal sexual activities. In many cases, investigations saw the involvement of a woman, at times underage, who aided and forced another girl into prostitution. In such cases, paradoxically, thanks to a well-consolidated intervention system for this specific context, a twofold objective could be pursued: on the one hand, to fight all forms of exploitation and, on the other hand, to identify a victim that had emerged as exploiter; in such ca-

ses the experience of multi-agency gained over the past few years allows to operate selectively.

On the contrary, in the field of forced criminal activities, which are traditionally not considered among the areas of exploitation, the situation is much more complex. Drug dealing, theft, robbery etc. are being tackled and pursued by law enforcement agencies for purposes other than the protection of the potential victims of exploitation, not only because this is objectively beyond their mandate, but also because the operators involved in fighting these phenomena have a different approach and know-how when responding to such acts.

These are situations for which in Italy social intervention, irrespective of its form, is not structurally envisaged. These situations should have a law enforcement operator with previous experience in the field of trafficking. One that is capable, in this particular context, of a structured activity to fight those groups that commit robberies or burglary and can intervene and identify the conditions of vulnerability and the status of victim of a co-perpetrator who is actually forced to perform those acts. These scenarios, until now, did not foresee the intervention of social actors as their presence was not needed to fight against predatory offenses such as robbery, burglary, drug dealing, fraud etc.

Clearly, whenever a child is involved, specific forms of assistance and protection should be activated. However, the operating procedures in force at present do not have the degree of specialization that such situations of serious exploitation would instead require. In other words, what is still missing is a prompt assessment of the sort of ties that condition the minor. This aspect, together with the circumstances that do not allow the legal detention of the minor may determine giving into the pressure applied by the exploiter, and eventually, their return to the exploitation network.

In focusing on children and the Roma group, attention should go to the important role played by the age of criminal responsibility. In Italy only a minor aged 14 or over can be held criminally accountable. For crimes committed by anyone under the age of 18 the competency rests on the Juvenile

Criminal System. Based on such regulations age therefore plays a pivotal role in many situations involving Roma children.

Another element worthy of consideration is the degree of awareness /knowledge of those operating in Offices of Juvenile Justice on the phenomenon of human trafficking and on the modes of intervention that need to be adopted when dealing with this sort of crimes that are not structurally within their competence. These situations are not the usual cases that prosecutors commonly deal with. This particular context thus calls for greater coordination between District and Juvenile Prosecutors. The main obstacles stem from the fact that the Juvenile Prosecutor may have indications on the elements of vulnerability, anomalies, signs, or useful indicators, but they may not always have all the necessary information to correctly understand the situation, or may not have the instruments to determine whether a particular child is a victim, an accessory or the main perpetrator of the crimes that emerged. This form of collaboration could radically change the way prosecutors operate because if a minor is under investigation for an illegal activity for which he was exploited, then the juvenile prosecutor is the competent authority, seeing that the suspect is a minor. On the contrary, if the child is a victim of trafficking, the jurisdiction falls under the District Prosecutor, seeing that offense is against a child. It is crucial in such cases to establish a stable connection between juvenile and district prosecutors which implies cooperation through a shared mechanisms of intervention defined by protocols. The latter must contain general guidelines on how to operate in the presence of elements/indicators that help identify a situation involving a minor investigated for crimes that he or she was forced to commit or even induced to commit. The following can make a difference to the outcome: if a child is indicted, he will be tried and, if found guilty, sentenced; but if his status of child victim is recognized, meaning that the was forced to commit such crimes as private violence, abduction, trafficking, slavery. Since only one of the two scenarios can be legally recognized, the key to guarantee proper functioning of the judicial system is to establish a general framework that coordinates

juvenile and district prosecutor offices. Beyond the need to build such forms of cooperation, the problem of criminal liability of a person who has committed the crimes is still open as the Italian legal system has not introduced exoneration in specific circumstances for the situations referred to in the Directive 36/2011.

A first step in this direction may be to implement local networks, if they do not already exist, or to create new ones where there are no forms of dialogue between different institutions and the private social sector, with actors that institutionally deal with children. A great step forward in this direction would be the systematic imposition to cooperate between juvenile and ordinary authorities in cases where the minor under investigation may be a potential victim, as was done for example in the case of the explanatory document that circulated by Superior Council of the Judiciary which, already in 2011, intervened identifying specific obligations for judicial offices to conceive a network of interventions that combat gender violence. Such obligations became particularly relevant, especially in proceedings involving both adults and minors who committed certain offenses. An example could be a proceeding for drug smuggling involving several defendants, including minors. The documents sent to the Juvenile Prosecutor with the idea of initiating proceedings on those cases under its competence is merely informative. At the same time, what may also happen is that a Juvenile Prosecutor, on the basis of particular information, starts its investigations on the minor defendant without informing the ordinary prosecutor who may be interested in examining the situation more in depth to identify any indicators that may point to a situation of exploitation. In the event this communication gap is filled, triggering a virtuous cycle, the number of identifications will probably rise considerably. This is all the more true if the cooperation with other privileged partners, as the operators of juvenile detention facilities and the interventions system charged with child protection, is strengthened.

In Italy no specific law has been defined to prevent or suppress the punishment of the victims of trafficking. The criminal

code sets out the general rules that exempt an individual from criminal responsibility when he commits an offence under coercion, seeing that there is no mental element in the act. These norms, however, need to be interpreted by the relevant Offices, which may express different orientations. All the same, such provisions are far from the standards that have been set at the international level concerning the non-criminalization of victims forced to perform certain activities.

Certainly the incorporation, nationally, of a specific and mandatory rule on the above mentioned point would prevent any misunderstanding or different interpretation. Prospects that serious forms of exploitation emerge in connection to situations examined by the Juvenile Prosecutor will require further investigations carried out by the ordinary or the Anti-Mafia Prosecutors. In addition to an institutional problem concerning the distribution of competences among the various prosecution offices, there are also issues on the different professional and training background of the various operators working in the judicial system. In fact, investigations carried out for crimes other than human trafficking have been found to lack the proper sort of sensitivity needed to identify the victims of such crimes. This is why it would be essential for the various offices to work in a coordinated manner. The sensitivity of Juvenile Prosecutor Office becomes pivotal. This aspect also emerged from interviews with operators of the juvenile detention system.

With regards to Roma, and even those involved in begging, the housing proposals offered were regarded as inadequate. It should however be noted that their involvement in this particular area of exploitation seems to be decreasing, probably because it is less and less tolerated in our cities today. The same is true in cases of sexual exploitation of alleged child victims whenever it is difficult to guarantee access to social services to address disastrous family situations, often characterized by violence, with mothers who remarry often also involving oppression. In such situations the choice to migrate is often a response to break away from extreme poverty even if this implies severe cases of exploitation.

All intervention, be it preventive or social, is extremely complex, as for instance cases involving borderline subjects who have just come of age from North Africa. Clearly, offering them accommodation in a foster family does not pay off as much as for instance, being involved in activities such as drug smuggling which makes them earn much more, much faster. The alternative would imply a more difficult and painful path, requiring a much greater level of awareness that is not easily acquired. This needs to be borne in mind when confronted with this phenomenon, as on one hand there is an activity that generates quick and easy income, on the other, a much more difficult path. In other words, the opportunities offered by the system of interventions can only increase potential success when individuals who are severely exploited or in slave-like conditions meet a situation of security measures (administrative or criminal). But in case of a condition of vulnerability, linked for instance to being underage or, for adults, to a disadvantaged situation afflicting the family in the place of origin, the relationship with the exploiters assumes a different connotation, making the situation much more complicated. On this issue, the comments of the operators who were interviewed are significant. They seem to agree that, the physical detachment of minors from these situations of exploitation, including the stage of serving the sentence but also the moment in which the juvenile system takes on the responsibility of the case, is a fundamental condition that leads to the emergence of such situations.

Differently from what is generally known, among the Roma the presence of underage girls is very significant, both in terms of quantity and for the ductility of exploitation ductile. Anti-trafficking services have intercepted many young women, especially in cases of exploitation in the field of petty crimes (theft) committed mostly in supermarkets or stores. Cases of coercion on the part of the family to steal used clothes from Caritas drop boxes have also been reported.

Operators from big cities, Milan in this case, had the impression that the level of criminal activity is high, especially those involving minors forced to commit petty

crimes and drug dealing recruited and intercepted by Roma groups in the countries of origin with the specific aim of exploiting them in Italy (or in other countries; cases of exploitation at in Italy and then in Greece were reported). They come mostly from small or medium-sized cities, and they have lived in poverty and socio-cultural deprivation. Domestic violence, attempted sexual violence or rape and alcoholism are part of their daily life, along with conditions of severe economic deprivation often coupled with the imprisonment of one member of the family or of the individual himself. Situations, therefore, where the life revolves around survival and delinquency as a way of life with a backdrop filled with elements of exploitation and illegality. The cases reported in the interviews underscore how the family plays a major role, becoming an active part both in the exploitation and in the previously carried out illegal activities.

Departure from one's country of origin is an autonomous choice for women, who are often bought by men of Roma groups, who in turn may have been sold by their families (to earn money from the sale of their children) to organizations that will in turn exploit them. Obviously children have no idea that they will be employed in illegal activities such as sexual exploitation or begging.

On their journey, forms of abuse and violence anticipate what will later happen in the place of destination. Physical violence, food and sleep deprivation are the most common forms of violence which are often accompanied by forced begging or prostitution. The movements in different cities are driven, prepared and controlled by the exploiters who, as it often happens in cases of severe exploitation, become their only point of reference.

The concept of ownership limits any interaction of victims with other people in general and frequently even with other exploited victims so that, in the case of a woman, she will be known to have sex with other men exploiting the same group of people, or not, belonging to the sphere of exploiters and that the activity was decided and agreed upon directly by the exploiter. Participation, in terms of duty, to support

the family economically is an important form of psychological violence. Practically, personal gain is therefore non-existent and when victims manage to save small amounts of money they use it to survive.

The most significant activities involve pick-pocketing on public transport and subways or in shopping malls and stealing in supermarkets. Children are brought to their workplace by the exploiters. When they beg, they normally do so together with other people, standing at traffic lights or outside supermarkets; in cases of forced prostitution or when forced to commit illegal activities, they are alone. The control however, is constant, both in the workplace and in their moments of "rest" even in their place of accommodation.

The level of coercion is very high. Victims are forced to commit illegal acts, beg, prostitute while under constant pressure, threats and physical and psychological violence. Apart from the case of a young girl stealing from the garbage bins because of a family dynamic, other reported cases showed what can be defined as ferocious, and humiliating forms of slavery in which the ability to meet the basic needs of the victims is constantly challenged. As it often happens in relationships based on violence and exploitation, a prevailing trend of ambivalence between fear and gratitude prevails. Paradoxically, exploiters are the only people victims can trust. Moreover, the victim's position of vulnerability is so great that it does not allow the individual to conceive the idea of exploitation. In the cases considered herein, the exploiters are men or the Roma family of origin. From information gathered by the Judicial Police Forces, what emerged was that exploiters are people who do not perform any regular job but are dedicated full-time to exploitation from which they earn a considerable amount.

The Roma community in Milan and in Lombardy is a very large community made up of families and clans that control many areas of illegal activities. Within the community people know and recognize each other. This is why it becomes very complex to break free from it. Worth underscoring that in the city of Milan, in December 2010, at the end of an in-depth investiga-

tion lasting months, Police Officials of the Investigative Unit of Milan, Pavia and Turin, issued 25 arrest warrants in connection to an organized group involved in severe transnational crimes, such as slavery and trafficking in human beings of 34 Roma children who were subjected to ill-treatment, violence, forced to commit crimes and other illegal activities (gamble, usury).

Investigations started after the Police noticed a steady presence of groups of Roma children, aged 6 to 14 in Milan's Central Rail Station from 10 am to 11 pm committing petty crimes against passers-by. Thanks to their attentive observation and control, their criminal activities were identified and outlined: adults managed the children's "work", controlling them directly and confiscating the amount they collected from their criminal activities. The group structure is hierarchical; older children can take a part in the booty, the younger ones are only allowed to have a very little of the money.

In the summer, children, always escorted by adults, are taken to other tourist venues, to enhance their illicit earnings. This criminal organization operated between Romania and Italy: children were recruited with the aim of committing illicit activities and sent to different towns in Italy (Milan, Venice, Bologna, Ancona and Pescara).

The parents of the trafficked victims were, in some cases, aware of their child's destiny and allowed their child to be brought to Italy where she/he would be subjected to slavery, violence and threats, and forced to pick-pocket, rob, making about 800 euros a day per child. The organization then sends the money to Romania, where the parents of exploited children receive a payment. The cooperation with Romanian Police Authorities, in compliance with a European Arrest Warrant, led to the arrest of 6 people in Romania.

Fear, the size of the Roma community, and the psycho-physical vulnerability of the victims are the main reasons that make it difficult for the victims to break free from conditions of exploitation. In such cases, an exit from exploitation is almost always conducted by the Police. This results in the inclusion of victims into social protection programmes, independently of their will.

This course of action, naturally, may see victims assisted by programmes for a very short period. Generally, the law enforcement authorities that come in contact with victims are the Police Rapid Deployment Units, but the level of control does not permit effective engagement making it difficult to break away from exploitation, especially for trafficked minors who live a nomadic life as they are often invisible and difficult to intercept by the operators.

As in the case of prostitution, a major role in the management of Roma girls may be played by the so-called "boyfriends", both in terms of the "initiation" into illegal activities in the countries of origin and in prompting the abandonment of the family. The family tends to go against their daughter's relationship with a much older person, especially men. In such cases, the exploitation is generally sexual as well, and the minor may be aware that, once in the country of destination, she will be involved in illegal activities. In one case, the girl reported that the choice of coming to Italy stemmed from the fact that sanctions for petty crimes are rather lenient.

The journey in such cases is paid and organized by the "boyfriend" using vans that commute from Romania to Italy, through Trieste, using authentic documents (identity card for EU citizens) and false family ties. For migratory projects based on a relationship, at this stage, forms of violence or abuse are not necessary. In these cases, the accommodation is not inside a Roma camp, but in overcrowded apartments, in areas of the city where there are very strong networks with nationals who can offer the logistics for their reception. Traffickers have great control of their victims in terms of the location and the timeframe in which the victim must carry out the activities. Control is exercised through psychological and physical violence as well as threats. The prevalence of women in this target is also confirmed by the fact that among the Roma teenagers involved in the juvenile system, there is an equal distribution between males and females or even a predominance of females, unlike other ethnic or national groups. These children often have grandparents who come from Serbia, Croatia and Bosnia and grew in families of origin where, in practically all of



the cases, at least one parent and sibling is serving a prison sentence or an alternative measure of detention. These children started committing crimes as part of a cultural learning process which, until a few years ago, was mandatory. It is only recently that this phenomenon has partly diminished as the average age at which children begin to commit a crime (around 17 years) has significantly increased, whereas before minors began even before having reached the age of criminal liability.

In Veneto and Emilia Romagna had individuals coming from the Balkan wars, which coincide with the greatest exodus from these countries of origin. Since the 1990s, these groups permanently resided in Italy, so much so that children and grandchildren never returned to their country of origin. On the contrary, recent Roma migration flows are not a significant phenomenon in the context of criminal forced activities, differently from what people generally tend to believe also in order to criminalize this target of Roma community. Family ties are sometimes difficult to understand, for instance at times, it is hard to tell who the parents of the minor are and to rebuild the network of relatives, since the mother/father of the child may be detained or ill so that the child is entrusted to cousins, other relatives, especially grandparents.

The act of committing an unlawful activity plays a crucial role. Lately, the families who can "boast" of not having committed any offense is unfortunately a minority as Roma groups living in these regions rely on criminal activities as normal source of income. As for the phenomenon of "selling" a person, the only case observed is that of girls sold to the groom's family on the basis of a previously agreed upon sum of money calculated using such criteria as for instance the ability to steal.

The documents issued for this target group is very delicate because, although the children were born in Italy from parents who were also born in Italy, they sometimes do not possess Italian documents. Their grandparents report that their documents were lost during the war. As a matter of fact, only some of their parents regularized their position and are either citizens of

the former Yugoslavia or Italian citizens, but it is not unusual for children who were born in Italy to be de facto "stateless", without any identification document. These communities have very strong family ties.

Frequently, the permanence of the minor in shelters or communities fails when the family decides that they are no longer appropriate and calls them back, since the exploitation is exercised by the family itself, although perhaps enlarged, and are expected to participate in supporting the family.

The illegal activities that individuals are forced to commit are for the most part burglaries and stealing in shops that can turn into a robbery if the victims react, although these activities are normally planned so as to avoid such circumstances. However, cases of armed robbery were reported, but the children's role is marginal. These crimes are committed in tandem with other adults who manage the money they earn.

There is no perception of exploitation, but rather the idea of a deeply rooted conflict between the Roma and Gaji. Minor become aware of the existence of a possible alternative only after periods of detention or their stay in communities, even though the act of breaking free from a situation of exploitation, where there is a lack of awareness or faced with such competitive alternatives that guarantee a much higher profit in comparison, is rather difficult.

But the exit from the circuit of lawlessness may also represent a family choice that somewhat "authorizes" the minor to follow other avenues. Sometimes this happens because the family falls apart (parents detained in prison, sick grandparents, far away uncles) and the minor is then free to choose, or forced by the involvement in the criminal system.

It may seem absurd but the turning point that leads them to future freedom may well be the moment they "are caught" by the law enforcement or sanctioned by the judiciary. A coincidence of events such as, on the one hand, the offer of a real alternative, (community, social work, job) and, on the other, less family pressure in committing crimes can be crucial, especially where there is a stable and family-like relationship with the operators working in

the community where they are being sheltered. By contrast, for a child, the absence of a family member is an important factor as there is no sense of belonging nor of a shared community membership.

In North-eastern Italy, a significant number of exploited subjects, met by social workers who are combating trafficking and offering assistance to the victims, are young men from Maghreb, mainly Morocco and Tunisia. They were usually raised by their biological family in conditions that can be defined critical, although not necessarily hopeless. The families often encouraged him to reach Europe to improve the family situation, at times very problematic, especially after the death or emigration of one or both parents, after a separation, violence, alcoholism, detention etc. With reference to this target, and according to the interviews, some of these young people arrived to Italy following the massive migration flows from the Mediterranean in 2011 and were involved in trafficking especially in criminal activities. Some of them are from the town of Gafsa, the city between the mountains and the Sahara located about 350 km from Tunis.

Their exit from exploitation often stemmed from the victim's will to lead a regular life in the host country and to obtain a regular residence permit. Based on the respondents' answers, the factors that may have hindered successful relate mostly to a lack of alternatives in the absence of a residence permit and the lack of consistent income.

#### **a) The presence of child victims of serious exploitation in the forced criminal activities in southern Italian cities: the example of Naples**

From a territorial point of view, the phenomenon of forced criminal activities seems to occur, among particular nationalities, and is quite similarly in the various national contexts. However, there are marked differences among the various nationalities or ethnic groups, in terms of borderline or integrative activities.

Considering, for instance, the territory of Campania, especially the Neapolitan

area, (excluding labour exploitation) reports show the potential criminal networks involved in theft, robbery the dealing / transport of drugs that may be carried out by young men and women (including minors) from Eastern Europe (mainly Romania and the countries of former Yugoslavia) and young people from North Africa, but even from sub-Saharan Africa, especially from Nigeria and Gambia, nationalities whose exposure in the drug trade is notoriously important in this Region especially in the area of Caserta.

The first target group is more involved in activities such as burglary, the second, instead, is forced into trafficking and transporting drugs, a field that was once dominated by local crime. Now instead, it seems accessible to many young migrants who recently arrived in the area along with the flows from North Africa. The latter group of young foreigners are a nonorganic part of mafia criminal organizations, engaged in minor drug dealing or other kinds of legal and illegal activities, with significant rotation in terms of activities. Often they serve as a cover up more relevant activities of organized crime which exploit this foreign labour force underpaying them.

There is also a widespread use of various forms of begging that even when they appear organized (for example with real shifts at traffic lights or at the entrance of a supermarket), seemingly do not reveal any severe form and/or signal of exploitation and coercion. However, for some target groups the risk of exploitation is high, especially when some factors affect the ability of self-determination, for example, in the case of young people with disabilities from Romania and Bulgaria, or young Nigerians who have incurred a debt and, based on evidence gathered, are forced into begging by the traffickers who led them to Italy.

Finally, there are a number of hybrid activities associated with real forms of begging involving mostly Bengalis, with exploitation schemes masked with offers of solidarity on the part of compatriots. Italy has also a presence of young males and females of Romanian descent who do activities that fall under the category of "begging" coupled, in some cases, with

prostitution provided by many underage boys.

Cross referencing information on the part of the operators working in this area of our country, such cases can be regarded as cases of exploitation since its victims are minors rather than by the fact that a third party may be depriving them of the profits made from illegal activities. Minors, sometimes very young, and not homosexual, seem to use the money obtained from prostitution to purchase goods of modest economic value such as phone cards, cigarettes, miscellaneous clothing, etc. The above mentioned modest sums derive from their involvement in prostitution rather than from begging, since the latter is by now not very profitable.

In other words almost a way of inventing a "role" that until very recently was unknown from the cultural perspective of young Roma which, in this context, could be interpreted as a path to freedom from adults, although, as reported by social workers, even male prostitution has its situations where the forms of control can be rather heavy.

Most cases involve young people from the city of Calarasi, Cluje Napoca and Iasi, with low levels of education and with little or no work experience (both in the country of origin and in Italy) who presumably belong to the Roma ethnic group.

Naples was found to have extended families where the children's parents were not always present. Trafficking flows of minors between Romania and Italy were frequent, and the flow was not only limited to Italian cities but to other European destinations as well, depending on the network platform. Mobility, which characterizes the daily life of these subjects, makes it even more difficult to approach social services, to monitor the situations that are at risk or even identify the relevant indicators of trafficking and exploitation. There is no evidence of minors "trafficked" specifically for the purpose of forced criminal activities but rather what emerged were cases of forced marriage and severe domestic violence against young girls perpetrated in significantly degraded environmental contexts.

To young people, life in the so-called

"Roma camps" in the cities is the only common denominator. Camps provide a network of contacts, relationships and knowledge, and depending on the case, may be an opportunity to create a relationships with the adults who manage circuits and criminal activities such as property crimes, stealing copper from railways, disposing toxic waste, and prostituting.

A common dynamic described by young people relates to situations of debt contracted for various reasons (from the small sums required for round-trip journeys to Romania to the money needed to pay for the "bed" in the barracks of the field; or situations of indebtedness affecting family bets lost to "casino craps"); in such cases, the need the debts that need to be paid back lead many young people to activities that can generate profit "fast" (which includes illegal activities like begging, prostitution). However, even in these cases, the perception of the exploitation (although applied in an indirect form) is missing. Poverty, difficult family situations, the lack of language skills, low levels of education, a lack of professional experience, inclination for street life, are all factors that make it more likely for them to end up in situations of exploitation or illegal activities.

Roma children and adolescents coming from former countries of Yugoslavia, coming from families that by now have settled in the territory, have been reported to be involved in cases of exploitation in illegal activities, especially thefts and robberies. Some of these minors took part in social protection programs.

Other targeted groups saw primarily the presence of young Nigerians aged between 18 to 30. It is worth highlighting that this community, based on the material of interviews, yielded a rather contrasting scenario of testimonies.

According to social workers, many cases of young Nigerian who arrive to Italy are forced by their traffickers, who led them there, to return the debt incurred that served to organize their migration project. In paying back their debt, they must choose from a set of activities offered to them by the organizations that exploits them. According to social operators, victims are distributed pretty much the same rules as

the criteria adopted by criminal organizations that manage Nigerian prostitution. Nonetheless, according to police reports, there is little evidence to support the above mentioned statements.

Privileged witnesses have referred to the importance of a spiritual dimension, that characterizes this magic-religious element in the community, even for the male side of migration. The pressing need to provide economic livelihood for himself and his family appears to be the main factor that drives them into the networks of traffickers as they see better prospects in Europe. When they arrive to Italy, they find themselves in homes with young compatriots sharing accommodations with those who organize the exploitation activities. To repay their debt, at first, they are offered to peddle drugs or as an alternative to prostitute themselves (the latter has not been confirmed by law enforcement agencies). A third alternative (less remunerative) consists in begging, mainly near supermarkets and other business activities. The activities are organization and managed by all those who are playing an active role in the exploitation of victims (who also provide the substances, organize the sites where they will peddle, procure contacts with clients in the case of prostitution, organize and control shifts and locations for alms begging etc.). It is believed that the difficulties to enter Italy legally determines the risk of trafficking for these young people who end up being caught in trafficking networks.

In fact, exploitation is connected to the mechanism of incurring debts with the traffickers to reach Italy; paying back the debts and undergoing exploitation seem to be the only way to gain personal autonomy in the country of migration and contribute economically to support the family that is back in Nigeria. Drug dealing and prostitution earn notably more than the involvement in begging and, therefore, the idea is to free oneself, as soon as possible, from any debts. However, according to reports, these options are not greatly appreciated and may even cause tensions to the exploiters.

Lately, there have been more and more young people coming from sub-Saharan Africa (in particular Gambia) found de-

aling small quantities of drugs in central areas of Naples. "They work" even in large, visible groups and operate in very busy central areas of the city catering to the nightlife, thus risking arrests daily. These young people arrived to Italy in the past two years as a result of the emergency in North Africa. It is often boys who arrive and obtain a residence permit for humanitarian reasons, obtaining benefits from structures in the territory, under the regional hospitality plan.

Even children and young people from Bangladesh are numerous, especially in Naples. They are generally male, aged 16 or between 18-20, from rural areas of the country and from disadvantaged social classes. Whereas the presence of children under 16 was observed only in families who have resided in Italy for some time. Most of the time family pushes for the migratory project of younger migrants, even though there is no evidence of debt mechanisms.

The risk of exploitation is obviously potentially higher for the children who are not filtered by associations and responsible bodies. As underlined by most parties ambiguity that surrounds the role of those offering shelter and protection to these children upon their arrival. In fact, the conduct of their compatriots alternates from showing a sense of solidarity to take advantage of them for personal gain. Such individuals are not only present at the time of their arrival, but even when adolescents come of age and leave the community for example, asking them to pay a fee ranging from 200 to 300 euro to obtain their residence papers. When the child is placed under the protection of the services, and is thus no longer an asset., any disappearance of the adult of reference (an uncle or cousin) may indicate that the person was only seeking economic profit.

Unaccompanied minors who are not in residential communities experience great hardships and marginalization, finding shelter from peers, acquaintances or compatriots who in turn are also experiencing difficulties. They live in overcrowded apartments, often without adequate services; rarely reaching local services (social, health, administrative) to undertake a pro-

ted social and cultural route towards inclusion.

The transition to adulthood is definitely what, especially in a restrictive legislation as the Italian one, exposes people more to the risk of falling prey to situations of exploitation or severe exploitation. In fact, some problems were encountered in the work of the residential communities, which more and more often fail to ensure the documents that minors need to regularize their status once they have come of age. In reference to those who reach adulthood, it is precisely because of their young age that they have greater risk of being trapped into a system of heavy exploitation, especially since without a residence permit it is more difficult for this young man to be welcomed by his compatriots; in these situations it is likely that the hospitality is offered only if the individual shows the willingness to be exploited (for example, in some of the cases witnesses said that these young people were employed in grueling street vending, working long hours, often more than 12 hours a day, getting derisory wages, on average 15 euros). The exploitation becomes exponential because it bases itself on an inability and the impossibility to react.

There seems to be no record of existing trafficking dynamics in exploitation involving children who have just come of age for Bengalis (such situations were instead observed in the phenomenon of labour exploitation). What seems evident however, is the attitude of these young people, but also of adults and minors hosted in communities, towards the "self-exploitation" in humble, strenuous and poorly paid activities. Witnesses showed a poor perception of their exploitation (sometimes imposed and self-imposed) in the context of the Bengali community residing in the Naples area, characterized by a strong presence of family groups, friends or community members, especially in terms of the sense of belonging that the minors feel and for the type of migratory projects that this community is implementing. These bonds can be a resource but also a risk factor, especially when the "group" is characterized by activities or behaviours at risk of exploitation.

##### 5) GENERAL ANALYSIS OF THE ADEQUACY AND IDENTIFICATION OF OBSTACLES AND GAPS IN THE ANTI-TRAFFICKING LEGISLATIONS, REFERENCE TO THE NATIONAL AND LOCAL REFERRAL SYSTEM AND A BRIEF DESCRIPTION OF THE MONITORING AND DATA COLLECTION SYSTEMS AND ON HOW TRAFFICKING IN FORCED CRIMINAL ACTIVITIES IS DEALT WITH

Italy's evident lack of a specific exemption from responsibility of the individuals who commit criminal offences in circumstances of trafficked victimization or other serious forms of exploitation, does not encourage the emergence of this target group.

Results gathered during the interviews reveal that the subjects that get caught in this area of trafficking, are often individuals who are moved away from the family context. This is an important factor in the management of exploitation or in any case in guiding the minor (but not only) towards illegal activities.

Obviously this data is relative, but considering the events related to Roma children, the family or the parental or institutional networks linked to caring for the child, and taking in charge, providing education to the child seem to play a major role in the decision and organization of the migratory project. The situation of other national groups appears totally different, even though in circumstances involving children, the separation from the exploiter also seems to be a key moment to reconsider one's choices and maybe, if there is the chance, to opt for a different path. In a certain sense, it seems that the prolonged involvement in illegal activities is tiresome, although it can be an important identity factor to build a strong image in the eyes of others, and an image of antagonism with the non-Roma world.

The area of juvenile justice and the individuals responsible for social work in this context, together with the police, are surely those who have a better chance of interpreting the real situation of these subjects. The double status which they bear, that is to say

of people who commit a series of crimes by virtue of their being first of all victims, and those who are therefore in a condition of need, due to a lack of alternatives or forms of coercion that may manifest itself in various ways.

On the other hand, these situations should be familiar to those working in connection to the phenomenon of human trafficking as they have always represented one of the techniques used by exploiters against their victims, both to make them more vulnerable to blackmail them, and to share their income. Consider for instance criminal investigations on the exploitation of prostitution which often sees the women who have undergone an offence be accused of the crimes which they themselves suffered.

In focusing on minors, consider the fact that our legal system provides norms that consider the structural condition of greater vulnerability of this subject who, in the circuit of criminal justice, can take advantage of much more important structured services for their rehabilitation and social reintegration rather than the (scarce) ones provided for older people.

In Italy the lack of a national referral system should be noted. There are however some systems incorporated into some local governments, as already mentioned previously in another part of this report, that are very structured as in the case of Veneto and more extensively in the Triveneto area, where the Municipality of Venice could be considered a unique case at the national level. Indeed, unlike many local governments, the Municipality of Venice has always managed the assistance to victims of trafficking thanks to a staff with different roles and skills, nationally and internationally appreciated. It carries out activities such as:

- *Contact activities with at-risk populations aimed at the early identification of victims involved in indoor and outdoor prostitution and in other areas (labour, begging, forced criminal economy, etc.); Among these, the Proactive actions of early identification of potential victims carried out by street units, by the Toll Free Number, investigators specialized in combating trafficking are privileged*

*sources to locally monitor the trafficking network and provide the qualified know-how that is needed to successfully implement all subsequent interventions of support to potential victims of trafficking and severe exploitation;*

- *Identification activities and first assistance to victims of exploitation, oriented in accordance with the principle of non-discrimination to give all potential victims identified in the Triveneto territory equal treatment in terms of rights and protection (as a matter of fact such activities correspond to the so-called reflection period for victims of trafficking established under law and realized in Italy in the context of Article 13 projects)*

- *Social inclusion activities and compensation of victims of crimes (assistance projects and social integration under article 18; and assisted voluntary return programs in the countries of origin of the victims);*

- *Monitoring the phenomenon and evaluation to establish the interventions.*

Therefore what is needed is a local referral system that takes into account all the human rights of the victims of trafficking and serious exploitation to enable effective prosecution of those crimes responsible for the crimes. This implies cooperation between the police and civil society with regard to:

- *Developing systems to monitor the phenomenon, contact and report potential victims exploitation (sexual, labour, begging, illegal economies, adoptions, organ trafficking)*

- *Implement tools and models for the identification of potential victims with the aid of multi-agency networks linking social action and the police, applicable throughout the territory of expertise territorial jurisdiction*

- *Codified procedures for reception facilities for the safety and protection of persons and anti-trafficking devices;*

- *Define the procedures to issue residence permits on humanitarian grounds.*



Over the past years governance capacity of the "system designed" by the Ministry for Equal Opportunities, set up within the Presidency of the Council of Ministers, involving other sectors of the central government, the Inter-Ministerial Commission and the Technical Board, was rather weak, both in terms of its contribution in defining a National Anti-Trafficking Plan (which will hopefully be adopted soon, being expressly provided for in the Legislative Decree transposing the European Directive 36/2011), both relatively to the assumption of responsibility, on the part of other relevant ministries, to support and implement a National System of interventions to help the victims of trafficking and serious exploitation.

The existing governance mechanism of this system, need to be reviewed and strengthened, at least at the central level through greater involvement of ministries that have an interest and institutional obligation in combating the phenomenon of trafficking and serious exploitation. It is therefore critical to build a National System of interventions capable of helping the victims of trafficking and serious exploitation.

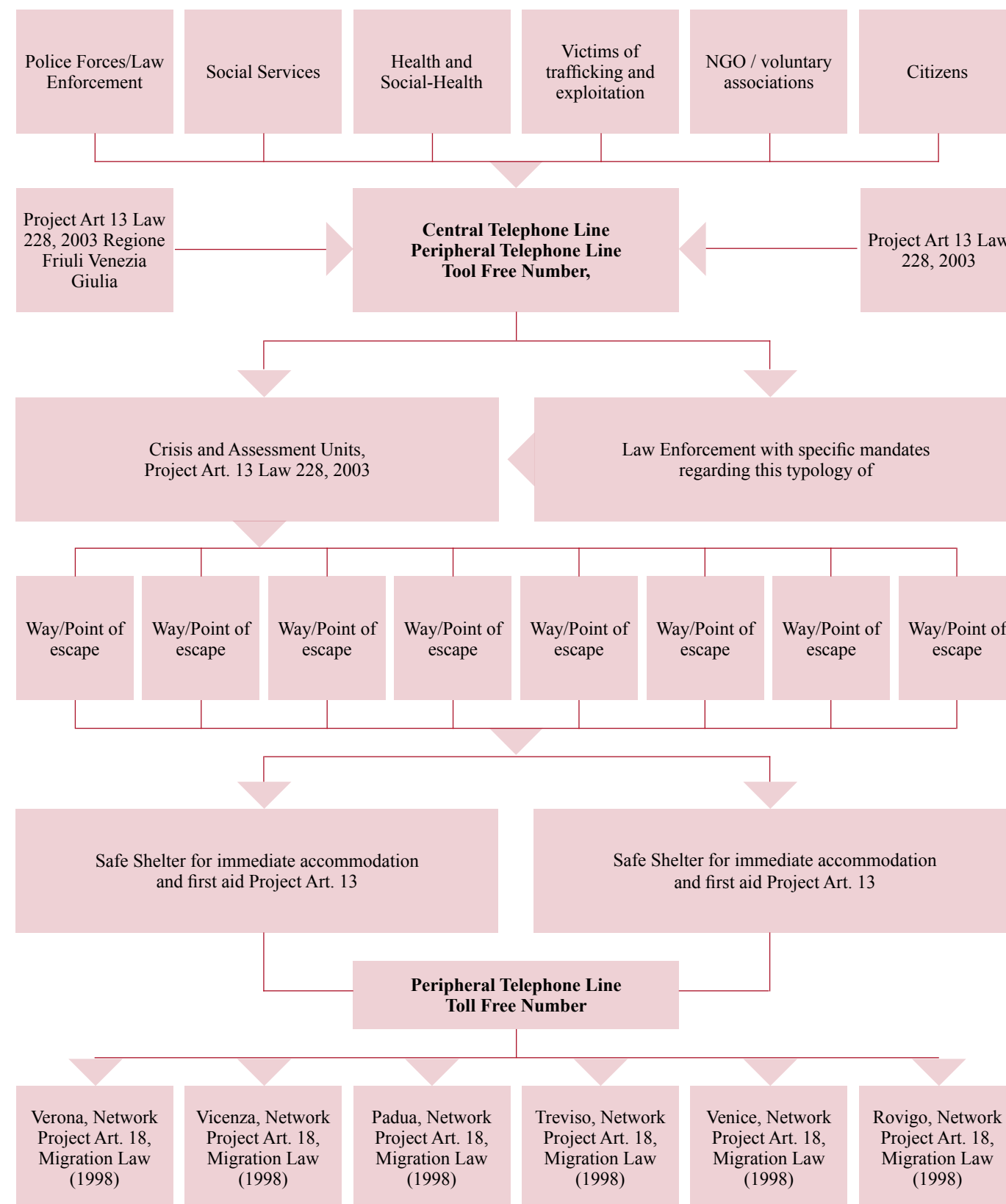
It should be noted that no national system of intervention supporting victims of trafficking and severe exploitation, in its threefold division (emergence, identification and first aid; social inclusion), can survive without an investment in emergency activities that is equal or greater than the one on assistance or social inclusion activities. In this connection, it would be strategic to support contact activities with of populations at risk of trafficking and severe exploitation during the emergence phase. Secondly, with reference to local authorities, in order to safeguard single human rights and the multi-agency approaches, it would be important to develop national guidelines for actions in the field of reporting and referral, identification and first assistance, protection and social inclusion to be implemented, managed and monitored at the territorial level by operators working in local authorities.

A model of multi-agency cooperation that strives to safeguard human rights and encourage a synergic harmonization of

the social sphere as well. The police and judiciary that counter trafficking must develop a structured system where the reporting, identification, a prompt first reception of potential victims integrate the rich knowledge and experience on the field in order to guarantee access to all victims of trafficking and severe exploitation to the systems of protection present on the operative territories of competence.

Based on such methodological premises, the local referral system developed by the working group in the Veneto Region includes the cooperation of operation-oriented human rights and the work of multi-agency networks as illustrated in the following page:

**GENERAL SCHEMA OF THE LOCAL REFERRAL SYSTEM OF VENETO REGION**



#### a) The Local Referral Mechanism and the critical areas regarding criminal forced activities<sup>38</sup>

The phenomenon of trafficking for exploitation in illegal activities has not been considered by the local anti-trafficking networks designing the local referral systems. This is demonstrated by the lack of cooperation or forms of partnerships in this domain and specific operational protocols between institutions and civil society organizations tackle the issue of identification and protection of this category of victims, thus foreign minors, perhaps even unaccompanied, who have committed a crime and are under preventive custody or serving their sentence, or minors involved in begging, prostitution, peddling, offering various different services which are often complementary to the perpetration of illegal acts. This absence of cooperation, rather than the invisibility of the phenomenon or the non harmonization of the various legislative areas which could help to counter the problem stems from the inability of those working within the sector to move away a traditional concept of trafficking linked to sexual exploitation and gender issues without considering the relevance of other emerging areas of exploitation.

In addition, to enable any other potential condition of exploitation against foreign minors to emerge may not be an "easy" course to pursue nor to institutionalize as it implies conferring to a foreign minor, especially if unaccompanied, the status of victim of trafficking. This calls for the involvement of a greater number of institutional actors. This in turn may trigger a jurisdictional conflict among those working respectively within the system to protect minors, the system to protect unaccompanied minors and the system to protect victims of trafficking. All this underscores the absence of an approach that puts the individual subject at its centre instead of considering him or her as a witness as an unaccompanied minor, or a victim, depending on the main players and on the perspective.

For these reasons the operational practices oriented to human rights that focus

on the person and the multi-agency network in the field of trafficking for illegal forced activities found in Italy the chance to formulate and experiment in part of the territory (Venice, Milan, Naples), solely activities related to early recognitions and identification of anti-trafficking operators and the Social Office for minors - Juvenile Justice Department through the use of joint assessments in favour unaccompanied minors held in Juvenile Penal Institutions.

As clearly evident, this particular context helps to implement an identification process of potentially trafficked minors after 2 previous identifications, the first as the author of the crime, the second as the unaccompanied minor.

To be more effective in fighting trafficking, this process should start from the very beginning, thus at the time of early recognition of the victim, which often coincides with moment the crime is committed and not when serving the sentence or after having served the sentence.

Finally, seeing the difficulty in defining the phenomenon as well as the victim's profile, specific operational procedures aimed at accompanied minors or Roma minors involved in forced illegal activities are almost not integrated into protection and social inclusion activities of anti-trafficking systems since the minors who may be the victims of trafficked are often put into other systems of protection. This criticality stems from the inability of anti-trafficking systems to be flexible and well equipped in conceiving and developing educational and operative strategies that go beyond the limits of merely providing passive assistance, as the traditional approach in working with this sort of target group. The latter approach is adopted because minors often only stay in the shelter for a very short span of time, which may even be just a few hours..

#### 6) TRAINING, AT THE HEART OF THE HUMAN RIGHTS APPROACH AND MULTI-AGENCY WORK

The need to consider the phenomena associated with severe forms of exploita-

tion and human trafficking in the light of the human rights paradigm, is currently enshrined in many soft law instruments and adopted in the United Nations Treaties as well as in the Council of Europe Convention of 2005 against human trafficking and in the recent European Directive 2011/36.

The complementarity between fundamental rights and democracy is now more than ever anchored to the legal dimension of human rights and to the process of positivation, that is to say, the process by which the rights are turned into subjective situations guaranteed by rules and legislation. Undoubtedly, in recent years there have been many contributions to the development of human rights law, both in terms of their proliferation and specification and in terms of guarantee schemes.

Italy, in relation to the trafficking of human beings and serious forms of exploitation has distinguished itself internationally since adopting measures which focus greatly on protecting the victims, and at the same time effectively countering this phenomenon. As generally known, in many circumstances it is not easy to identify the victims of trafficking, and sometimes beneath the exploitation of prostitution there are more severe crimes below the surface.

Clearly, the non-visibility of such phenomenon does not imply that it does not exist, nor does it mean that it is irrelevant in terms of numbers. What is needed to resolve social problems goes beyond measures of public order and criminal repression because it violates the rights of the most vulnerable individuals, it overloads the court system, and diverts law enforcement from fighting real forms of criminality.

In recent years the work of volunteers and the third sector, together with local governments and other social actors, brought significant knowledge and best practices, guaranteeing assistance and promoting "social security" and human rights, conflict mediation and integration.

## NATIONAL RESEARCHES ON FORCED CRIMINAL ACTIVITIES AS A NEW FORM OF EXPLOITATION IN HUMAN TRAFFICKING

### 4) ROMANIA<sup>39</sup>

#### 1) GENERAL FRAMEWORK ON TRAFFICKING IN ROMANIA

The scale and nature of THB for forced criminality in the EU is not easy to define because of very fundamental reasons. Criminal activity related to trafficking in human beings is hidden within other criminality, such thefts, frauds, illegal adoption etc. This often results in instances of trafficking not being investigated or recorded as such. The EU Directive 36/2011 considers forced begging and the exploitation of criminal activities as forms of labour exploitation, whereas the expression "exploitation of criminal activities" should be understood as the exploitation of a person to commit, inter alia, pick-pocketing, shoplifting, drug trafficking and other similar activities which are subject to penalties and imply a financial gain.

In addition, though Romanian authorities identify a small number of victims coerced to commit crimes every year (from 6-10%, in the last 4 years), the situation described by authorities and services providers across the EU offers a very different picture, dynamic and multi-layered. Therefore, in an effort to describe the situation in the field faced by main destination countries, several researches have been studied, their selection being based on the actuality, relevance to the topic and quality of information provided. In this respect will be cited findings of the reports: RACE IN EUROPE; CONFRONT; A study on Begging, etc.

The following section tries to capture a broader image of the phenomenon of illegal activities in the frame of trafficking in persons, focusing particularly on how Romanians (adults and minors with and without Roma ethnicity) are used for these purposes abroad. In addition, the chapter

will also capture the phenomenon of trafficking for forced criminality purposes, as it is reflected within Romanian borders.

According to RACE IN EUROPE<sup>40</sup> (the UK) research, in considering the trafficking for forced criminality purposes, the belonging of a person to the Roma community was identified as underlying vulnerability factor, especially in cases of street crimes and begging. The vulnerability seems to increase if correlated with historical exclusion, marginalization, poverty and lack of access to proper documentation, educational, social, medical facilities, unemployment and lack of (adequate) housing.

Unemployment and economic exclusion further make Roma susceptible to debt and vulnerable to exploitation. Common survival practices in Roma communities faced with unemployment imply lending money (from neighbours, either Roma themselves or not) and from "professional" money lenders (loan sharks known as 'camatari'), who charge exorbitant interest rates and use repressive measures to ensure 'payment'. Such measures imply forcing them undertake criminal acts (begging and pickpocketing), or traffic their own children for the same purpose, to clear the debts they may have accumulated. Some of the families of trafficked children perceived sending them abroad as only solution for their survival, even in some cases they were aware of their children being used in criminal activities. Thirdly, family members (parents, grandparents, uncles) may even accompany these children and coerce them to beg or steal. These children are being instilled that they are earners, helping their families survive, and thus their earning abilities are valued.

The main types of trafficking related criminal activities identified in the UK, in which Roma groups from Central and Eastern Europe are exploited also include: counterfeit DVD production and selling, bag-snatching, ATM theft, pickpocketing and forced begging.

Particularly significant was the **Operation Golf** (a JIT carried out between 2007 and 2010) in which the Metropolitan Police Service and the Romanian National Police dismantled a specific Romanian organised

crime network involved in trafficking children from the Romanian Roma community. Over 1,000 children from Tandarei, a small Romanian town were trafficked to Western Europe for forced labour and sexual exploitation. In the UK, the children were exploited in 'street crime' offences such as pickpocketing, bag-snatching, shoplifting and ATM, distraction thefts and forced begging. The OCN was hierarchical with a complex structure and operated all around Europe, often by moving their victims to several countries, to increase their earnings. Apparently a child in the UK could earn as much as £100,000 a year. In addition, children below the age of criminal responsibility (10 years old in England, Wales and Northern Ireland, and eight years in Scotland) could not be prosecuted, making it as high-profit and low-risk business.

The Operation was also established to identify and safeguard those being exploited. 126 individuals were arrested for offences such as trafficking in human beings (including domestic trafficking in the UK), money laundering, benefit fraud, child neglect, perverting the course of justice, theft and the handling of stolen goods. Seventy-one convictions were gained in total, with 52 individuals gaining custodial sentences amounting to a total custodial time of 59 years. The prosecution of the Romanian-based criminal members is on-going. The decision to prosecute them in Romania, rather than extraditing them to the UK was strategic as the maximum sentence for trafficking is higher in Romania (20 years' imprisonment), and the Romanian CJS is known to impose harsher sentences than the UK. In the end, 29 of the trafficked Romanian children were located and safeguarded.

In link with Operation Golf, was the case of Maria (13 years old) trafficked into the UK in the 2000s. Her father paid €200 to an organised criminal network to arrange her travel into the country. In the UK, Maria was placed with a family in Slough who were part of this criminal network. She was exploited in domestic servitude, having to do the household chores and care for the children. She was made to sleep on the floor and was fed only scraps. Every day Maria was driven to Surrey and



forced to beg, steal and to sell the 'Big Issue' magazine illegally. After working for 12 hours each day she would be collected, searched and beaten by her traffickers. She was never allowed to keep any of her earnings. Although forced to work on the streets throughout the winter months she was never provided with a coat to wear or anything to eat or drink. Following an in-depth police investigation as part of Operation Golf in 2008, the house where Maria was living was raided. Four adults, including Maria's father, were convicted of trafficking. Maria was repatriated to Romania and passed into the care of Romanian Social Services.

According to the same report the following findings can be highlighted: persons can be exploited through a wide range of criminal activities as their traffickers identify new ways in which to exploit victims; and persons may also be exploited through multiple activities concurrently (an increasing trend), such as begging and petty crime or combined with sexual exploitation (forced prostitution), domestic servitude or other forms of forced labour.

The UK identified the following forms:

- *Sham marriage: EU-national women trafficked into the UK and forced to marry a non-EU national in order for the latter to gain residency in the UK. The traffickers obtain payment for the marriage.*
- *Drug transportation: men and women are forced to become drug mules as a way of repaying the debts incurred. Women may be tricked or emotionally blackmailed by men posing as their boyfriends. Some may already be in a situation of exploitation (as a result of being trafficked) and are offered freedom for acting as a drug mule for the traffickers. The Poppy Project, victim support provider encountered cases where victims were forced to act as drug mules, arrested on arrival into the UK, and subsequently convicted for drug trafficking offences.*
- *Charity bag theft: cases of Lithuanian nationals being forced into crime by organised crime groups profiting from establishing fictitious charitable organi-*

*sations have been reported in England, Scotland and Wales. Victims are made to participate in the theft of charity clothing bags (which contain of unwanted clothes that members donate into bags provided by charities and place on the streets) which are then transported back to Lithuania to be sold for a profit as second-hand goods. Romanians have also been reported in this but to a lesser extent.*

- *Counterfeit goods: using Asian persons coerced to produce, distribute and sell counterfeit DVDs and other goods. Romanians are also involved in such activities but to a lesser extent.*
- *The same report also mentions trafficking for metal theft, specifically in relation with Romanian organized crime groups and victims.*

However, according to UK statistics, the trafficking of Romanian nationals for criminality is still occurring on a large scale and in 2012 Romania led as main country of origin for trafficked victims (12%) and of these victims, 24% were criminally exploited. Since 2011, in the UK, 3,318 children had been arrested for theft offences and 28% of those came from Romania. It was noted that there was significant discrepancy between the number of children arrested for theft and the number who are included in after-care programmes (less than 5 at the moment of research).

Secondly, on the situation in Sweden, according to Swedish official reports, the number of officially identified victims of trafficking is low, with only 170 recorded cases between 2006 and 2010. In 2012, a survey was undertaken using interview and questionnaire data from frontline staff that had come into contact with child victims. The survey identified 102 presumed child victims, aged between 3 and 17 years. Two-thirds of those identified were foreign nationals, many of whom originated from Romania and Bulgaria. Both girls and boys were identified as having been criminally exploited for pick-pocketing and theft, as well as begging. The survey findings were corroborated by a Child Protection Specialist working within Stockholm who fur-

ther noted that initial concerns regarding this issue were raised in 2006-2007 when boys, mainly from Belarus, Ukraine, Russia, Romania and Bulgaria, were observed taking part in organised petty crime and begging.

Thirdly, a study recognised the severity and complexity of trafficking for forced begging in Romania. The Romanian National Agency against Trafficking in Persons (NATIP) carried out a research into the experiences of 191 men, women and children who had been subjected to this form of trafficking. Romania has specific domestic legislation criminalising trafficking for begging and victims are entitled to receive the same assistance as victims of other forms of trafficking. Despite this, forced begging is the third most prominent type of exploitation recorded by the authorities in Romania, making up 10% of those identified as being trafficked. The study recognised differences in trends between those who were trafficked within Romania and those who were sent abroad. Those exploited domestically were usually disabled, children or homeless and most were already practicing begging. Domestic traffickers usually operate on their own or in small groups and many exploit their own children or family members. The majority of victims (81%), however, were trafficked outside of the country as in most countries begging is not an offence. This reduces the risk to the trafficker. There is also often a higher living standard outside of Romania which increases profits and finally, because of the newness of this type of trafficking, authorities are unaware and have not yet developed strategies to combat it.

Most victims suffered physical abuse, emotional abuse and financial indebtedness. "I was afraid all the time, at night I could not sleep, my heart was beating really fast, I did not know what to do. I had no money; they supervised us all day long. They were threatening to kill us all of the time." (B, 22 years old).

As has been recognised in other studies, there is an over-representation of Roma as both victims and traffickers. Roma in Romania are at greater risk of trafficking because of a number of socio-economic factors such as poverty, social exclu-

sion, discrimination, their lack of formal education and the inadequate social assistance systems. The study made a number of observations and recommendations in reference to preventing trafficking for forced begging. Of particular note is the conclusion that the proper identification of victims and their referral to adequate assistance could "break the chain of this particular type of trafficking." (Source: NATIP, October 2013. Trafficking in Persons for Begging – Romania Study).

Moreover, the CONFRONT study clearly states that there are no specific, rooted cultural practices rendering Roma vulnerable to trafficking but that factors such as poverty, unemployment and low levels of formal education as well as the history of social exclusion are factors increasing their vulnerability to trafficking. To these add the history of physical and sexual abuse, previous involvement in prostitution, the lack of social support, the lack of support from social protection institutions. On treating the subject of Roma children exploited for forced begging purposes, is mentioned the passive reaction coming from the state authorities. The interviewed experts mention Roma ethnicity both among victims and traffickers and explain this situation in the frame of lack of perspectives and limited impact of social protection policies. Minors are trafficked mainly in Germany, Italy, Greece and Spain.

The report further presents a famous case of trafficking in minors for forced begging purposes from a small town in the southern part of Romania – Tandarei and neighbouring parts who were exploited in the UK by an OCN composed of 78 members. Apart from begging children were also forced to pickpocket and wash car windows. The children were sold by their families to the OCN, in the hope that they would earn money in the UK and help their families in Romania. The UK police had them arrested and treated them as low criminal profile offenders but failed to investigate the case more in depth. Finally the OCN was dismantled through a joint investigation operation carried out with the Romanian police.

The phenomenon of child victims ex-

ploited for pickpocketing is extremely difficult to be investigated and this explains the relatively small number of identified victims that Romanian authorities report. Pickpocketing is often associated with begging and represents also a survival strategy used by poor families: they may even encourage their children to steal or sell them to traffickers. As causes for the exploitation of children for illegal economy purposes there can be mentioned: poverty and lack of hope, negligence, large families with no income, violence, broken families, the passive reaction of authorities and communities towards crime. To these add social exclusion, spatial segregation, illiteracy, lack of formal education, gender and ethnicity based discrimination. These are findings which can explain the increased number of Roma children in the total victim population (also noted by several other researches into the phenomenon).

The various sources mention Roma as one of the highest risk groups in Europe in relation to trafficking in persons. The report also mentions a certain reluctance of Romanian competent authorities in estimating the number of Roma victims and even the total victim population. Roma victims have been targeted as particularly vulnerable group both by the 2006-2010 and 2012- 2016 National Anti- Trafficking Strategy. The interest on researching into the topics of exploitation of minors and on exploitation for forced begging and criminality has also increased at the level of national coordinator.

According to the statistics released by NATIP, for the period 2010 – 2013, the number of persons exploited in forced begging varies as follows: 112 victims in 2010; 81 victims in 2011; 26 persons identified in 2012. In 2013 25 victims have been identified to have been exploited in begging, forced criminality – theft and pornography. For 2014, 53 persons have been exploited for begging and/or theft. Another official report indicates the following numbers of persons specifically broken down according to the exploitation for forced criminality purposes, theft and pickpocketing: 2009 – 4 persons; 2010 – 6 persons; 2011 – 11 persons; 2012 - 6 persons and 2013 – 3 persons.

Trafficking in persons for forced criminality purposes was not sufficiently explored as phenomenon in Romania. It is possible that the small number of identified victims makes it difficult for the authorities to research into the phenomenon or maybe the lack of data is determined by the difficulties authorities face in investigating petty crime in which children are involved.

According to ICARUS project, in the UK whenever a child is considered to be a trafficked victim, data is sent to the NIRM, institution which centralizes data concerning all victims. The data below has been registered concerning Romanian children for a period of three years as follows: 2011: 22 Romanian children identified – 13 girls, 9 boys, all unaccompanied 17 were suspected to have been trafficked for benefit fraud; 3 for criminal activities; 1 for domestic servitude and 1 for sexual purposes; 2012: 20 Romanian children identified – 16 girls, 4 boys, 13 were unaccompanied, 4 were accompanied by at least a parent, in one case this was undetermined, 5 were trafficked for benefit fraud, 4 for forced criminality, 3 for domestic servitude, 2 for forced labour and 5 for sexual exploitation; 2013: 19 Romanian children identified, 14 girls and 5 boys, 13 were unaccompanied, 3 were accompanied by at least a parent, in three cases this could not be determined, 3 were suspected to have been trafficked for sexual exploitation purposes, 9 for forced criminality, 4 for illegal adoption, 1 for labour. A brief analysis points out that around 70% of these children are girls, almost 80% are unaccompanied and 50% have been used for benefit fraud purposes. These are also the most vulnerable children for re-trafficking.

According to the GRETA report (2012) before the enforcement for the NIRM, victim identification used to be conducted on a case by case basis, without any formalized procedure. That was more of a reactive than a pro- active identification, being based on the self-recognition of victims and on the effectiveness of institutions and NGOs who might have coincidentally encountered victims in their work.

The same GRETA report, under point 106 also mentions the need to take active measures by institutions and NGOs to tac-



kle the prejudices and stereotypes around women and Roma persons who have been trafficked, in order to address the root causes of trafficking and to foster access to education and employment for vulnerable groups. The same report (under point 105) on referring to the National Anti-trafficking Strategy for 2006 – 2010 mentions that the one of the problems faced by the Roma population refers to the lack of birth certificates as these are not issued on a free of charge basis. The report also stresses out the need to combat the “deeply rooted negative attitudes and prejudices oriented towards trafficked victims, including those of Roma origin”.

Another reference is provided by the European report of the Roma Rights Centre and People in Need, *Breaking the Silence: Trafficking in Romani Communities* (2011), which mentions that “only a small number of trafficked persons of Roma origin are included in assistance schemes in Romania, one of the explanations being that they usually mistrust the officials in charge with providing support and prefer to avoid any contact with them”. It is highly probable that trafficked persons of Roma origin come from the very poor communities with few or no real employment opportunities, who are dependent of the state social aid (the minimum guaranteed wage and the alimony for children), from urban areas but spatially isolated or from rural areas, with little or no formal education, with limited access to social services, in state of marginalization and discriminated against.

The interviewed experts (NATIP representatives and Roma intellectuals participating in informal discussions) highlight that the traditional cohesive and poor Roma community, with strict living rules ended up trafficked for economic purposes (Healy C., Piotrowicz R., 2013). Background Research Report – Trafficking for the Purpose of Exploitation through Begging). The exploitation of others has simply become an acceptable way of living, women being exploited by their own families (husbands, fathers, brothers). A representative of the Child Protection Directorate appreciated that the trafficked minors come both from traditional communities and from the un-traditional but poor ones but stresses

out that each case is “unique”. Minors are the most vulnerable to getting trafficked for begging and illegal activities, especially petty crime. They can originate from both urban and rural areas (the data does not indicate any pattern related to this), the common element being the extreme poverty. The statistics available for 2011 and 2012 point out that these minors may come from bi-parental families (22 situations), from mono-parental families (8 cases) or may not know their families (8 situations) (Ungureanu, 2013).

Given the circumstances, and the ethical ambiguity, families coerce their children to beg and it becomes the sole money bringing occupation the family may have. Most common are the following occupations:

- *Parents without any income or with little earnings using their children for begging. Younger children beg together with their mothers while others are sent to produce money on their own;*
- *Elder brothers compel the younger brothers to beg or even to pickpocket, together or on their own;*
- *Children left in the care of relatives – grandparents, uncles or of other persons are extremely vulnerable.*

The report further mentions that the permissive attitude towards begging is less frequent in traditional communities or in those which have recently joined neo-Protestantism.

The problem becomes systemic when criminal networks identify the profitability and the “potential” of exploitable persons and acts accordingly. All respondents – institutions, law enforcement, social services, and community members describe a pattern in which OCNs simply purchase children from their families and insert those first in the local begging networks then abroad. The data collected do not allow for identifying routes of the amplitude of the phenomenon. France and the UK have been mentioned among the destinations but these can be much more diverse in fact.

The activity itself can be described differently and usually work-like activities

are associated with it (e.g. car window washing, guiding parking, etc) to indicate that the respective person does this to support themselves. Washing car windows is done in agglomerated areas, at crossroads. Guiding parking implies that children and adults have “reserved” the particular parking area and are offering spaces for a certain fare. Guiding parking tends to become an industry related to organized crime networks due to the profits involved. Some of the respondents mentioned begging out of free will, indicating that the person carrying out the activity does it consentfully.

In addition to that, begging is also associated with pickpocketing as both relate to poor communities, living in segregation. There are two major differences when considering the two phenomena, one implying the degree of social acceptance of the activity (theft is never accepted, not even as a means of subsistence) and theft is not associated with poverty. Theft may become a significant source of income and a profitable family occupation (“a certain family could gain a fortune out of theft abroad and took their children to work there together”). Getting children involved into theft follows the same patterns as begging: as lifestyle of the family and children coerced by the OCN to steal after having been kidnapped from or sold by their families.

Identifying minor victims coerced to pickpocketing is difficult as children are not responsible for the deed and often the offenders succeed to escape before the police gets them while leaving the children behind (input from NATIP). It is almost impossible to prove the parents’ involvement in exploiting their own children as in most situations children do not consider to have been victimized by their families. In such situations children may feel proud and happy while they are validated for helping their families to live better. The NATIP report specifies the connection between forced/voluntary begging and pickpocketing, both performed under the same constraint. The traffickers have trained their victims in ways to steal, in items, children being lured into stealing by means of emotional manipulation and use of violence. Yet, the reduced number of identified cases makes it difficult for the Romanian authorities to

develop a coherent response.

On studying the recruitment process, the interviewed experts mention: parents involved in exploiting their own children, parents directly exploiting their children on the street, in all cases parents being the main beneficiaries of the profits, while the chances of getting out of exploitation are minimal. The respondents have also mentioned that Roma minors are exposed to a higher risk of being trafficked given economic and demographic factors such as: great mobility of Roma groups, high birth rate, high rate of school dropout and illiteracy, poverty, compared to the average population.

#### a) Legal and institutional framework

Romania has enforced a comprehensive legal and institutional framework aiming to prevent and combat trafficking in persons.

Alongside with all member states of the European Union, Romania has ratified the Convention and the Trafficking Protocol, the main national specific legal tools transposing its contents being:

- *Law 678/2001 on preventing and combating trafficking in human beings, amended and supplemented by Law 230/2010;*
- *The National Strategy against Trafficking in Persons for 2012 – 2016 with its subsequent National Action Plans 2012 – 2014 and 2014 - 2016, approved through Government Decision;*
- *Government Decision 1238/2007 to approve the specific National Specific Standards for the Specialized Assistance Services provided to trafficking victims;*
- *Joint Order by competent ministers and agency presidents - Ministry of Interior and Administration Reform, Ministry of Education, Research and Youth, Ministry of Public Health, Ministry of Labour, Family and Equal Opportunities, National Authority for the Protection of Child Right, National Agency for Gender Equality, National Agency for Employment, National Agency for Roma - to set up, organize and bring into ope-*

*ration the Thematic Working Group to nationally co-ordinate activities for the protection of and assistance to victims of trafficking (published in the Romanian Official Journal 799/23.11.2007);*

- *Joint Order by relevant ministers - Ministry of Interior and Administration Reform, Ministry of Education, Research and Youth, Ministry of Public Health, Ministry of Labour, Family and Equal Opportunities, Ministry of Foreign Affairs, Ministry of Justice- president of the National Authority for the Protection of Child Right and the Prosecutor General, to approve the National Victim Identification and Referral Mechanism (published in the Romanian Official Journal 849/17.12.2008, part I);*
- *Government Decision 1443/2004 on the Methodology for repatriation of unaccompanied Romanian children outside the country and measures to ensure their special protection;*
- *Government Decision 1295/2004 to approve the National Action Plan on preventing and combating trafficking in children;*
- *Government Decision 1769/2004 on the approval of the National Plan of Action to eliminate child labour exploitation;*
- *Government Decision 1504/2004 on the approval of the National Action Plan to prevent and combat sexual abuse and commercial sexual exploitation of children;*
- *Law 39/2003 on prevention and combat of organized crime. This law regulates specific prevention and combating measures to tackle national and transnational organized crime. Terms such as “organized crime” and “severe crime” are defined in relation with trafficking in persons and related crimes;*
- *Law 302/2004 on international judicial cooperation in criminal matters contains provisions on the different types for international judicial cooperation, such as: extradition, handing over in the frame of an European warrant; criminal procedure transfer; transfer of sentenced persons; rogatory commissions; summoning of witnesses, experts and*

*persons under pursuance; registration of procedures for the criminal trial;*

- *Law 682/2002 on witness protection establishes the measures concerning the protection of witnesses, including of their residence. In the light of this law, a witness can be heard under a different identity, including by technical means allowing him to be absent from the courtroom. It also foresees protection measures such as changing residence or surveillance of the residence;*
- *Law 211/2004 concerning measures to ensure protection to victims of crime;*
- *The Criminal Code entered into force in February 2014 – does not incriminate begging but contains provisions to incriminate trafficking in persons for forced begging purposes as it assimilates it with forced criminality purposes. The former Criminal Code stated that the persons who are able to work but engage in begging instead can be sentenced from one month to three years in prison. This regulation, found in Article 326 is no longer contained by the new Criminal Code. Instead, provisions are added to criminalise those who exploit minors or persons with disabilities by coercing them to beg. The firsts are liable to pay fines or even get imprisoned from six months to three years. Moreover, if the deed is carried out by a “parent, curator, legal representative or guardian of the person used for begging, the deed is punishable by 1-5 years of imprisonment.*

In addition to that, Romania also transposed into its legislation the following international legal instruments:

- *The Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims;*
- *The Council of Europe Convention on Action against Trafficking in Human Beings, signed by Member States of the Council of Europe on May 16 2005, in Warsaw, ratified by Law 300/2006;*
- *The ILO Convention for the elimination*



of the worst forms of child labour;

- Council Directive 2004/81/EC of 29 April 2004 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, and who cooperate with the competent authorities;

- Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims.

In May 2006, the National Agency against Trafficking in Persons (NATIP) was established following the approval of the Government Decision no. 1584/2005, as a specialized public administration body, to replace the former National Office to Prevent Trafficking in Persons. The NATIP functions under the Ministry of Interior and has the following attributions: coordination, evaluation and monitoring at the national level of the enforcement of anti-trafficking policies by the public institutions and organizations developing protection and assistance services to victims.

In January 2007, the NATIP developed SIMEV (the Integrated System to Monitor and Evaluate Victims of Trafficking in Persons) used in the data collection, processing and analysis, needed to elaborate studies into the phenomenon and statistical analysis. The NATIP also monitors the functioning of the National Identification and Referral Mechanism and acts as national focal point for international organizations active in the field of trafficking in persons prevention.

The SIMEV can only be accessed by users authorized by the NATIP, the Office for Monitoring, Evaluation and Coordination, the Regional Centres of the NATIP, the DIOCT, the border police. The system also collects data from NGOs, the Child Protection Unit, GDSACP, and County School Inspectorates. The reporting mechanism of Romania is connected with the NIRM, in the latter being involved actors such as: the General Prosecution Office; the NATIP with its Regional Centres; GDSCAP; international Organizations, the General Inspectorate for Immigration, the Labour Inspectorate, other governmental

bodies, embassies, consulates, TelVerde (toll free lines), foreign NGOs and other institutions.

#### **b) Specific procedures and provisions on the assistance & protection of children**

Following the revision of the national legal provisions concerning the rights of the child and specific protection measures, terms such as “exploited or trafficked child” are no longer used distinctively but have been assimilated to the more general expression of child that is “abused, neglected and subjected to any forms of violence”. The law 257/2013 to modify and complete Law 272/2004 on the protection and promotion of the rights of the child clearly states the child’s right to be protected against abuse, neglect, exploitation, trafficking, illegal migration, kidnapping, online pornography as well as to other forms of violence, irrespective of the environment he is in: family, educational facilities, medical units, centres, correctional/detention centres, sport environments, community, work place, mass media. Any physical or juridical person (including representatives of private child protection facilities) are obliged to notify authorities should they have knowledge of a situation in which a child may be abused, neglected, exploited, trafficked.

The child’s parents or legal representatives, public authorities and NGOs shall take all necessary measures to facilitate the physical, psychological and social reintegration to children who have been subjected to any form of violence, torture, or cruel, inhuman, degrading treatments.

Nonetheless, the Ministry of Internal Affairs, in partnership with the Ministry of Labour, Family, Social Protection and the Elderly, and the Ministry of Education and Research will jointly take all necessary strategic measures to ensure the effective protection of children against domestic and international trafficking in persons, including by their parents. In the National Strategy against Trafficking in Persons, including its subsequent Action Plan have been proposed objectives to

A child’s parents take the charge to care

after him and ensure that he harmoniously develops physically, emotionally, socially, morally and spiritually. However, should they temporarily or permanently, fail to carry out such tasks, alternative protection measures shall be ensured to safeguard him. As protection measures available, the law mentions: placing the child in the extended family; placing the child in centres for the neglected, abused, exploited and trafficked children; placing the child in foster care; tutoring; curating; adoption. All such measures shall take into account the superior interest of the child and be implemented with respect for the child’s ethnic origin, religious practice, cultural and linguistic belonging.

Protection and assistance is granted by the state social services and child protection (territorial unit), upon assessment of the child’s situation/available resources and established plan of services. Upon the notification of a child who is presumed to have been neglected/abused/exploited/trafficked and in need of emergency placement, the social services and child protection units have 30 to establish the individualized protection plan. The main focus in setting up the assistance objectives would be to place the child within his family or in internal adoption and is conducted by consulting with the child’s parents and extended family members. If not possible, the child shall be placed in a residential centre.

During the exercise of the emergency placement measure, the right to exercise parental duties will be suspended until a court decides otherwise. Parental/legal guardianship duties shall be exercised during this time by the person/family/foster care/maternal assistant/coordinator of the residential centre accommodating the child. The duties related to administrating the child’s property shall be carried out by the director of the general directorate for social assistance and child protection.

In terms of actual services, children for whom a special protection measure has been disposed have the right to receive food, clothing, footwear, sanitary items, school supplies, textbooks, sport equipment, toys; transportation costs coverage as well as allowance for personal needs.

The Anti-trafficking law 678/2001 with completions and modifications foresees that underage victims shall be granted special protection and assistance according to age. Their assistance is ensured by the social assistance and child protection directorates in residential centres and safe houses, with funding from local budgets and shall be monitored by the national anti-trafficking coordinator, ANITP. NGOs can also deliver protection and assistance services for children, victims of trafficking or other forms of exploitation.

#### **c) Appointment of a (temporary) guardian**

The international guidelines indicate as criteria for a person’s appointment as a legal guardian of a trafficked child: to have relevant child protection experience, knowledge of child rights/human rights and an understanding of the specific needs of child victims, including those specific to gender. Guardians shall be given specialized training, professional support and appropriate assistance in the performance of their responsibilities. However, such requirements are not considered in the Romanian specific legislation and nor is there foreseen a special legal guardianship procedure for children who have been exploited or trafficked.

According to the Civil Code in force, a legal guardian (a tutor, curator, a centre) can be appointed to represent the interests of the child, on a temporary or long term basis, wherever the case the parents no longer have the capacity to care after and represent the child. The legal guardian will be appointed on the basis of the superior interest of the child. The law foresees that as soon as a child remains out of his parents’ care the tutor court shall be notified. Notifications can be lodged from: the persons close to the minor, the administrator of the residence in which the minor lives; physical persons; local authorities; police; prosecutors; notaries; public administration representatives; child protection and social assistance units.

The tutor is a person or couple, designated by a special court, to defend the interests, property, rights and care after the

child whenever the child’s family can no longer carry out such tasks.

In order for the child’s parents to be legally replaced as legal guardians of the child, they have to be in one of the following situations: unknown, (declared) deceased, executing a criminal sentence, disappeared, restrained the right to exercise parental duties.

The persons who are eligible for the position of tutor are physical persons, single or married; family members or friends, who have high moral standard, good material conditions and shall act in the interest of the minor. Situations which are considered incompatible with the tutor status are: minors, curators, persons executing a sentence, persons who had the parental rights restrained, tutors declared incapable/contradictory to the minor’s rights and interests.

In case there are several brothers in need of a tutor, one person will be designated to act as tutor for all of them. Tutors found in the following situations may refuse to continue their role: the pregnant woman or mother of an infant younger than 8 or mother caring after 2 or more children; persons over 60 years old; persons with invalidity/who are unavailable due to work or distance. Whenever possible, guardians should be the same gender of the child victim and the same person shall accompany the child victim as guardian throughout the entire process.

Tutors are named by the tutor court’s decision and minors over 10 years of age shall be heard. Tutoring is a gratis activity, however under certain conditions can be remunerated. Tutors care after the minor by ensuring his physical and emotional health and development, his education and professionalization in line with his aptitudes. Tutors can represent minors in juridical matters before they reach the age of 14.

In cases involving minors who are victims of trafficking in persons, the legal guardianship procedure will be followed differently according to: the assessed risk on the minor’s reintegration in the family, the family’s knowledge of or involvements in his trafficking and on the situation he is found in: unaccompanied, separated from parents, with his parents. It is important to

define the legal status of the guardianship (legal guardian, temporary guardian, adviser, social worker, NGO representative).

- Therefore if the family has been involved directly in or consented to trafficked the child, or the child is unaccompanied, an emergency placement measure shall be taken by the social assistance and child protection directorate from the area in which the child had been identified in collaboration with the homologue unit from the area of residence of the child. In this situation the task to represent the child’s interests, rights and properties will be taken by the staff and coordinator of the residential centre providing protection and assistance to the child.

- Otherwise, it will be assessed if the current legal guardian (parents, tutor, other) is suitable to continue carrying out such role and fully represent the best interest of the child.

- For minors found unaccompanied on the territory of another state, a temporary legal representative shall be appointed to represent his best interest (act in loco parentis) during the process of conducting risk, family assessment and deciding on the voluntary assisted return and family reinsertion or alternative placement measure or reintegration in the destination country.

Consultation and information provided to the child on the appointment of the legal guardian and related processes should be implemented at all times. The state must also put in place a mechanism for monitoring the quality of the guardianship exercise, in order to prevent abuse and ensure that the best interests of the child are appropriately represented. All law enforcement personnel involved and any other relevant official services or NGOs shall be informed of the contact details of the guardianship service.

#### **d) The victim identification**

Even after the Romanian government have enforced specific laws, established



protocols, and attributed tasks to institutions to implement laws and built partnerships to identify victims, they are challenged in making victim identification effective in practice, especially victims forced to be involved in illegal activities. To place the victim at the centre of the prosecution means considering the rights, needs, and requests of the person who has been trafficked - before, during, and after an investigation and prosecution. In practice, this approach gains the trust and cooperation of the victim. It begins when a victim is identified and continues through initial steps to establish physical safety and meet the victim's immediate needs. The victim-centred approach helps prevent secondary victimization that can occur when authorities do not treat the victim with appropriate sensitivity or act in a manner that resembles the coercive methods of traffickers, risking re-exposure to trauma.

The victim identification process represents the first phase of a Trans-national Referral Mechanism – TRM or National Referral Mechanism – NRM and includes both activities related to victim's participation in the criminal proceedings and the provision of protection and assistance. It can be divided in two phases: preliminary identification and formal identification – this being a long term process, starting with the victim's declaration before the police officers and ending with the court decision.

First level identification contains the following actions undertaken by professionals in relation to potential victims of trafficking in persons:

- *Initial screening – the rescuing/identification process, assessment of assistance needs*
- *Ensuring access to basic needs –superposed on the assistance in crisis intervention: accommodation, food, water, clothes, emergency medical assistance, counselling/psychotherapy, information on the rights available to trafficked persons;*
- *Assessment of risk for the person and her family (if possible) on relapse into trafficking, on potential retaliation from*

*traffickers as well as risks associated to the physical/mental state of health or available resources in the family/community;*

- *Ensuring communication in the victim's native language or a language she can understand (wherever the case);*
- *Granting the reflection and recovery period (in Romania of 90 days) and implementing the specific assistance services, (medium term);*
- *The formal identification conducted by the judicial authorities investigating the trafficking in persons offence.*

*There are actors who can identify victims in the course of their work, within the context of their function, role and responsibilities. Thus trafficking may be detected any time and place, during the whole cycle of trafficking - recruitment, transportation, transfer, harbouring or receipt of persons. Among actors who can conduct the first level of identification, there are:*

- *law enforcement officers, specialized in combating organized crime; law enforcement officers at border points in airports, custom points of non-Schengen countries; local police; law enforcement officers working in prison or in centres for asylum seekers; immigration officials; road police; specialised police in public transport*
- *international bus drivers, airline and airport staff; specialised agencies/ including helplines; domestic violence/ related helplines*
- *State social assistance and child protection agencies.*
- *NGOs specialized in providing protection and assistance services to trafficked victims which also develop outreach activities.*
- *State /local officials of Chambers of Commerce or similar agencies in charge of registration in the Trade Register of people who want to start a business or want to start as a self-employed entrepreneur in entertainment.*
- *state /local officials of Municipalities or*

*labour inspectorates in charge of giving licences or permits for opening or inspecting businesses, including HORECA and entertainment.*

- *State officials in charge of delivering residence permits.*
- *Health workers, regular doctors who may have victims of trafficking as patients.*
- *Psychiatry units/emergency medicine units receiving patients in triage.*
- *embassies or consulates; housing departments of municipalities or private landlords*
- *teachers, school counsellors doctors, social workers; people from the neighbourhood*

#### **e) The Romanian National Identification and Referral Mechanism (NIRM) with a focus on referral to assistance providers and actors involved (active protocols)**

The NIRM was approved through Joint Ministerial Order 2881 in 2007 and sets up the general and special principles to be taken into account with regard to the identification of trafficked persons, as well as the means to identify them, from a double perspective: the legal and the victimological point of view. It specifies the actors involved and their tasks in carrying out not only victim identification but also in referring victims to assistance providers. It also contains a list of 70 trafficking indicators adapted after the ILO list.

The victim referral process is defined according to the NIRM as entrusting presumed and possible victims of domestic and international trafficking in persons to the providers of protection, assistance and monitoring institutions. This can be conducted within the borders of a country or trans-nationally upon the decision to implement such services in the victims' country of origin or in a transit or destination country (the National Identification and Referral Mechanism was approved by Joint Ministerial Order 335/2007).

As in the identification, there are seven

actors involved in carrying out the referral: judiciary authorities; international organizations; embassies/consular offices; institutions and governmental organizations; NGOs from origin/transit/destination states; social assistance institutions; labour inspectorates; healthcare personnel; educational staff; civil society members; to a smaller extent self-referrals. The multi-agency actors involved in the referral process shall cooperate to ensure that identified victims are provided in due time with adequate protection and assistance services. Each of the below mentioned partners will designate at least one representative as contact point in the victim identification and referral, and his contact data will be shared within the network.

#### **f) Referring trafficked persons to assistance providers**

According to the institution carrying out the victim identification as well as according to the nature of the actors involved, there are several referral procedures:

##### **1. The victim has been identified by judicial authorities with attributions in the field of combating trafficking in persons**

By directorate/bureaus/services for combating organized crime; the judiciary police; border police; DIOCT -> they will contact the representative of the Regional Centre of the NATIP

Institutions:

By other structures in the national defence system or public order: criminal investigations police; gendarmerie, local police, transports police -> they will contact the specialized judicial authorities (directorate/bureaus/services for combating organized crime) -> these will further contact the Regional Centre representative of the NATIP. The Regional Centre representative of the NATIP (Coordinator or Inspector - Psychologist or Social Assistant) will conduct the initial evaluation of the person's needs, and ensure that the victim is immediately referred to a services provider for assistance in crisis. They will maintain contact with the Case Manager/profession-

nal assigned to coordinate the victim's assistance programme. The NATIP Regional Centre Representative will inform the victim on the rights deriving from legal status and will mediate the relation between the victim and law enforcement, should the first decide to denounce the trafficking situation. They will also be in charge with the tactical transportation of the victim in safe conditions to the assistance provider, upon prior risk assessment.

##### **2. The victims is referred and repatriated through the Voluntary Return and Reintegration Programme of the International Organization for Migration (IOM)**

The IOM Romanian Mission representative shall meet the victim at the border point, inform her on the right to receive assistance through the Voluntary Return and Reintegration Programme and, upon her response: 1) refers her to assistance providers (in residential or non-residential care); 2) leaves contact data of organizations/institutions which can offer her support, in case she may change her mind. Upon victim's consent, he may further refer her to the NATIP for monitoring and for mediating the relation with judicial authorities

##### **3. The victim is identified and assisted before return by an NGO from the destination/transit state. The NGO refers her to a Romanian NGO for reintegration assistance**

The Romanian NGO representative will conduct the evaluation of the victim (risk and assistance needs assessment) and will wait for the victim at the arrival point in Romania (airport; coach or train station) or in a commonly agreed location. In addition, NATIP, the repatriation unit may also be present at the point of arrival and safely escort the victim to the accommodation facility or to the point of departure to area of residence.

Should the victim agree the NGO will refer the case to NATIP for: informing the victim on the rights assigned to the potential/presumed trafficked person status; monitoring of the assistance; inputting the victim in the database (it can be done ano-

nymously); Victim/Witness Coordination in the Criminal Trial Programme

##### **4. The Romanian victim is identified with the support of the Romanian Diplomatic Mission or of the Consular Office from the transit/destination country**

The representative of the Romanian Diplomatic Mission/ Consular Office will ensure the issue of a travel title to allow the victim return to Romania or will help in confirming the identity of the victim, if she no longer has identity or travel documents. He will further notify, through the liaison officer, the NATIP and border police on the return of the victim/victims, in order for them to receive accompaniment at the arrival point in Romania. Upon the case, the consular mission representative may refer the victim for assistance in crisis to organisations/institutions from the destination country.

##### **5. The trafficked victim is a foreign citizen**

According to the law, foreign citizens who are potential and presumed victims of trafficking are entitled to benefit, without discrimination from the same protection and assistance measures as country nationals who are victims. They shall be informed, in a language they can understand on their rights, including the right to a reflection and recovery period of 90 days, with the possibility to extend the assistance upon their cooperation with judicial authorities or upon them lodging an application for residence permit for humanitarian reasons.

In the situation in which the foreign victim wishes to be repatriated to her origin/residence country, the representative of the GII has the tasks to: contact the consular mission of that country to facilitate the issue of a travel document (if necessary); carry out all necessary formalities to regulate the victim's residence in Romania, according to the provisions on aliens' regime.

According to the location where the foreign victim is detected (e.g. at border point; in Romania, in various circumstances), the actors involved are:



- The territorial structures of Romanian Police and of Border Police -> will notify representatives of the Regional Centres of NATIP to assess the assistance needs of the victim and further refer them to state/ NGO assistance providers;
- The NATIP regional Centres representatives -> will notify the GII to request a protection measure for the foreign victims in Romania;
- The territorial structures of Romanian Police and of Border Police -> will ensure victim's safe transportation to the specialized accommodation facility where she is to receive assistance
- The GII representatives -> regulate the situation of foreign victims of trafficking in persons, according to the legal provisions in force; monitors together with the NATIP the protection and assistance measures implemented for the recovery of the foreign victim
- The territorial structures of Romanian Police and of Border Police -> will conduct risk assessment in order to establish protection measures, within 72 hours from receiving the referral.

#### 6. The victim is a minor upon identification, irrespective of her nationality

The organization/institution responsible with the victim identification/referral shall notify the child protection unit representative (GDSACP) or the responsible of the specialized service for the child victim of abuse, neglect and trafficking in persons, in order to take a special measure. In the situation in which a group of victims, adults and minors, is identified it is recommended that they receive assistance from the same provider, if possible. It is preferable that the minor victim receive assistance in a specialized centre for children victims of trafficking and exploitation.

The Regional Centre representative of the NATIP will be notified to conduct the initial needs assessment and to ensure the monitoring of the assistance provided to

the minor victim by the GDSACP centre or other provider.

If the child victim is a foreigner, the GII will be contacted to ensure the application of provisions of law 194/2002 on the regime of aliens in Romania.

#### 7. Unclear trafficking in persons case

- **The possible victim refuses to cooperate with judicial authorities but there is evidence indicating a potential trafficking in persons case, yet not all the elements of the crime are met**

The case will be re-evaluated by the NATIP, Regional Centre representative or by an organization specialized in providing protection and assistance to trafficked persons.

- **The person is a potential victim of trafficking in persons**

The person is granted the reflection and recovery period and receives assistance in crisis; upon her consent, she will be oriented towards the judicial authorities

- **The potential victim of trafficking in persons does not accept to meet any anti-trafficking actor, irrespective whether from state or NGO, refuses to get in contact with judiciary authorities and refuses to receive assistance**

If the person was detected at the border point, exiting Romania she will be provided with informative brochures on trafficking in persons and available support schemes;

If the person was detected at the border point, entering Romania, she will be provided with informative brochures containing the NATIP Helpline

- **The potential victim of trafficking is a foreign citizen**

The specialized structures of Romanian police and border police will notify the NATIP to conduct needs assessment and ensure proper communication with the person

The DIOCT prosecutors will request to the GII the toleration status/specific protection measures for foreigners for

whom there is evidence they may have been trafficked and who are entitled to the reflection and recovery period.

The NATIP representative notifies the GII on the existence of a potential victim who is also a foreigner; also announces the IOM Mission in Romania to evaluate the possibility of voluntarily returning the person to the origin/residence country.

The GII will regulate the situation of foreigners in Romania according to legal provisions and will refer the potential victim to a specialized assistance provider.

- **The potential victim of trafficking has been identified by the ANITP Helpline**

Upon the call, the person will be considered a possible victim of trafficking and will be treated accordingly. The helpline operator will conduct the initial analysis of the case and needs assessment, by taking into account security issues. He will further contact the police, gendarmerie or other competent authorities. He will further refer the case according to procedures in force.

- **The potential victim of trafficking is in critical state or has restraint capacity of exercise**

If the potential victim manifests severe PTSD or other clinical symptoms, the institution or organization which got in contact with her shall undergo a specific evaluation, to establish the capacity of deliberation of that person. Until the results are revealed, the person will be treated as a possible victim and shall be granted assistance according to rights provided by the law.

Either of the actors involved in the identification of the person (NATIP; NGO; GDSACP; GII; GIBP; GIRP, etc.) will accompany the possible victim to a hospital to be provided medical assistance. According to the nature of institution/organization which carried out the victim identification, the ANITP and specialized assistance provider shall be notified and the person be referred for assistance.

#### g) The victim/witness coordination in the criminal trial programme and actors involved (active protocols)

The programme was initiated in 2008, by the NATIP – as coordinator and the US Embassy in Bucharest and continues to be functional at national level, through the 15 Regional Centres of the NATIP.

##### Partners (protocols at national level):

- The NATIP through its 15 regional centres
- The Romanian General Police Inspectorate
- The Romanian General Border Police Inspectorate;
- The Romanian General Gendarmery Inspectorate;
- The Directorate for Investigating Organized Criminality and Terrorism;
- The Probation Directorate;
- The General Immigration Inspectorate.

##### Other partners in the implementation of the programme (protocols at national and local level)

- GDSACPs
- NGOs
- The Prosecutor's Office
- The Tribunal/ Courthouse

##### The Programme Objectives

- To increase the number of trafficked victims who participate as injured parties or witnesses in the criminal trial
- To increase the level of participation of trafficked victims in the different phases of the criminal trial
- To respect the persons' rights related to the participation in the criminal trial
- To build victims' knowledge on the judicial and administrative procedures in force
- To facilitate the access of trafficked victims who enter in contact with the investigative authorities to specialized protection and assistance services.

##### Mandate of the Programme

- To maintain constant contact with the victims
- To ensure their emotional support and accompaniment throughout the criminal proceedings and trial
- To ensure the physical protection of victims
- To provide trafficked victims with information on the rights they are entitled to and the services they can access
- To update victims on the case evolution in the criminal investigations and the trial phase
- To inform and explain victims the issues they may be facing during the development of the criminal trial
- To prepare trafficked victims for hearings and encounters with law enforcement, prosecutors and lawyers

##### Coordinating victims/witnesses in the judicial proceedings phase (investigation and prosecution)

- Programme coordinators are chosen among the NATIP Regional Centre Inspectors, that is psychologists and social assistants experienced in providing victim accompaniment and support in the different stages of criminal proceedings. Wherever possible, social assistants and psychologists from NGOs can also prepare the victim and accompany him or her during criminal proceedings.
- Judicial investigators request the presence of inspectors of the NATIP Regional Centres during the hearing of the victim. In this stage victims receive information on the roles of each professional in the team (prosecutor; police officer; psychologist), on the rights they are entitled to and the services they can benefit from. The programme coordinator conducts the initial needs' assessment and provides victims with basic information on the right. Victims are further on referred to specialized assistance providers.
- The programme coordinator facilitates the updating of the victim on the progress of the criminal proceedings and the need for the victim to provide addi-

tional information to law enforcement by maintaining contact with the police officer investigating the case.

- They further inform the case officer on security issues and collaborate to take the necessary protection measures.

- Whenever the case, the programme coordinator is in charge with the logistic assistance, i.e. organizing the victims' transportation or travel to the law enforcement and other judicial authorities.

##### Coordinating victims/witnesses in the trial phase

- Victims are informed on the start of the trial phase as well as on the need to be heard in front of the court. The responsible institutions coordinate the handing over of the summons to the victim.

- Victims are accompanied to the court premises before the actual court session to get acquainted with the environment and the court room. Victims are explained how the trial develops, as well as about the role of the parties involved in the trial.

- Protection measures are ensured to victims during the trial through collaboration with the Gendarmerie.

Victims are accompanied by the NATIP inspector/case coordinator throughout the entire duration of the trial

Victims are ensured legal assistance from lawyers.

Victims are informed on the rights they are entitled to during the trial phase, i.e. legal assistance, psychological assistance, special protection measures, the right to request the court for secret sessions, and the right to plead as civil party.

##### Coordinating victims/witnesses in the post-trial phase

- Victims are monitored after completion of the trial as long as long as there are security risks for them and their families and are informed on the available protection measures.



#### h) National coordinator - The National Agency against trafficking in Persons

NATIP is the specialized structure under the Ministry of Internal Affairs with attributions to coordinate, evaluate and monitor the enforcement of anti-trafficking policies and practices, at national level, by institutions and organizations mandated to address trafficking in persons. The NATIP also acts to bridge the gap between trafficked persons and law enforcement and connects the first with NGO service providers across the country. The NATIP collaborates with NGO services providers in Romania and abroad as well as with intergovernmental organizations for various matters. It is structured in a central coordinating unit to which add 15 Regional Centres, established in the main developmental regions, in areas in which operate the Appeal Courts.

The Regional centres coordinate and monitor the anti-trafficking measures taken at local level, cooperate with the municipality, the specialized police and social assistance system (state and NGO). Their personnel schema includes a Regional Centre Coordinator (detached law enforcement officer and two specialty inspectors, a Psychologist and a Social Assistant). In addition, at the level of the central unit, a repatriation team was set up with attributions to participate in assisted returns, pick victims up from the airport/place of arrival and ensure they are safely transported home, to a shelter.

To synthesize, the NATIP is mandated to carry out the following activities:

- To coordinate and monitor at national level the collection, processing, storing, analysis and dissemination of data concerning trafficked persons. The data is entered in an enhanced security system called SIMEV. The NATIP also monitors the protection and assistance provided to trafficked persons;
- To participate in the establishment for indicators and criteria measuring the phenomenon;

- To analyse the evolution of the trafficking in persons phenomenon, to identify trends and vulnerability factors based on self-entered data but also on data shared by the various relevant actors;
- To produce and disseminate the official statistics, other relevant reports and studies on the various dimensions of the phenomenon;
- To monitor the functioning of the shelters and centres providing assistance to trafficked persons, based on the criteria set up in the minimum standards for the specialized assistance for trafficked persons;
- To manage the national anti-trafficking toll free phone number and orient callers to protection and assistance providers;
- To carry out prevention activities and programmes addressing the different components of trafficking in persons.
- To implement the Victim/Witness Coordination in the Criminal Trial Programme, at national level.

In addition, other practices aiming to ensure adequate victim protection throughout the criminal proceedings are provided by Law 211/2004 concerning measures to ensure the protection of victims of crime. The law specifically mentions the access to psychological counselling given to victims of violent crimes, including those who have been trafficked. Such services are provided by the local probation and victim protection units, active under the Ministry of Justice. According to the law, free of charge psychological counselling is granted to adult victims for a period up to three months and to minor victims for a period up to six months. Similar counselling can also be provided by nongovernmental organizations, working in partnership with and receiving subventions from the state.

The same law states that victims are also entitled to receive free of charge legal assistance, the service being available both for survivors of crimes and their families (spouses, children, persons in the care of direct victims of crimes). These provisions add up to the common law provision granting access to free legal assistance for

persons who cannot financially afford a lawyer, thus one being provided to them ex officio.

However, the most important protection measure addressing victims refers to redress. Financial compensation from a state-run fund can be accessed by direct and indirect victims meeting certain criteria and following the notification of competent judicial authorities on the commission of the offence. The possibility of an advanced payment from the financial compensation is also available, only for the case in which victims are facing financial difficulties. NGOs providing specialized assistance can also act on the behalf of their clients to obtain compensation.

Another relevant actor in the implementation of anti-trafficking policies and in combating trafficking in persons is the General Inspectorate of Romanian Police, through the Directorate to Combat Organized Crime in charge with the judicial investigation of trafficking in persons cases and with interviewing victims. The Directorate contains 15 brigades and 27 county services in subordination, all corresponding to the territorial structures of the DIOCT, NAD, GAD, whose cases they investigate. The Bucharest Combating Organized Crime Brigade is divided into squads operational in the 6 districts. According to legal mandate, the Directorate cooperates with similar bodies from other states as well as with trans-national bodies<sup>41</sup>, and has 120 specialized law enforcement officers. Apart from DCOC, there are other police taskforces with attributions to investigate trafficking in persons cases, as follows:

- The Public Order Directorate ensures staff and tactics to the DCOC and assistance to the local and rural police; it also supports the NATIP prevention activities;
- The Transport Police Directorate ensures security measures on air, land and sea and participates with personnel and tactics according to its line of competence;
- The Institute for Crime Prevention and Research participates in information campaigns as well as in law enforcement trainings;

- The National Office for Witness Protection participates with personnel and technique to carry out the protection and assistance measures for those who are included in the programme.

Another Directorate under the General Inspectorate of Romanian Police, the International Centre for Police Cooperation (ICPC) acts as the national central authority in international police cooperation, being specialized in exchanging operational information concerning combating international criminality and manages information exchange between the specialized structures of the Internal Affairs Ministry. The ICPC joins the following international police cooperation channels: INTERPOL, EUROPOL, Schengen Information System/SIRENE, operational liaison with SELEC, with liaison officers and internal affairs attaches, both Romanians detached abroad and foreigners active in Romania<sup>42</sup>.

The Public Ministry through the Directorate to Investigate Organized Crime and Terrorism with its sub-structures ensures the conduction of the criminal pursuit and the notification of courts for initiation of judgements in trafficking in persons trials. DIOCT is the only structure specialized in combating and investigating the organized crime and terrorism, functions under the Prosecutor's Office near the High Court for Justice and Cassation, has 15 subordinated services and 27 territorial structures in which activate 280 specialized prosecutors<sup>43</sup>.

The National Authority for the Protection of the Rights of the Child and Adoption (NAPRCA), through its specialized units carries out the repatriation of victims and is active upon notification whenever a child is found unaccompanied at the border.

The General Directorate for Social Assistance and Child Protection ensure the enforcement of social assistance policies and strategies at county level to reach out to persons in need, including to trafficked persons, irrespective of their age.

The local authorities at county level coordinate and finance the activity of assistance and protection centres for trafficked persons, as stated in the law, including the activity of GDSACP units.

## 2) THE RESEARCH METHODOLOGY AND SOURCES

The research methodology was designed to guide the research, based on the minimum standards as laid down in EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, the CoE Convention on Action against Trafficking and other relevant international standards.

The research had two components:

- Collection of data from available literature, from studying cases in the ADPARE assistance programme and monitoring of media articles.
- Qualitative research - participatory research component: semi structured interviews with victims of trafficking (VoTs) and with representatives of public authorities at central and local level, NGOs and International Organization for Migration, Mission in Romania.
- Case studies – for a better understanding of the manner in which trafficking in persons for forced criminality purposes occurs but also to provide an image on how these cases are tackled from a judicial point of view. This was done by analysing ADPARE case files and in-

dictment documents, available on web portals.

In order to analyse the available data on victim identification and support, we relied on limited data resources due to reduced availability of relevant national sources and literature. The data used include: national reports on trafficking in persons by NATIP, GRETA country evaluation from 2012, Eurostat reports, other reports of international (governmental) bodies, and indictment documents of criminal investigations in the field, media articles, ADPARE's annual reports and ADPARE's reports on cases of trafficking for forced criminal activities.

The most important component of the research was conducting interviews with victims of trafficking (VoTs) for forced criminal activities. The process of selection was not easy due to the reduced number of victims included in assistance programmes or monitoring activities. All VoTs interviewed in this research are clients of ADPARE. The research involved 43 Romanian victims trafficked for criminal activities. To ensure anonymity, the only registered data refer to gender of interviewed VoT and country of destination. The table below gives an overview of the sample group.

#	Code: Gender, age and country of destination	Form (s) of exploitation	Age at exploitation	Time since leaving situation
VoT 1	Male, 20, Spain and Belgium	Thefts and begging	0-11	>3 years
VoT 2	Female, 24, Ireland and UK	Sham marriage and sexual services	23	3 months – 1 year
VoT 3	Male, 20, Sweden	Robbery and begging	19	3 months – 1 year
VoT 4	Female, 47, Norway	Pick pocketing and begging	46	1-3 years
VoT 5	Female, 28, Romania and Italy	Sexual services, thefts and introducing false money in the commercial circuit	17-21	>3 years
VoT 6	Female, 24, Romania	Sexual services and thefts	16-20	>3 years
VoT 7	Male, 34, Romania, Spain, Italy, Netherlands, Greece, France, Denmark, USA	Thefts, carrying and distribution of drugs	10-24	>3 years
VoTs 8-42	Males, 29-58, Denmark	Bank frauds	The same age <sup>44</sup>	3 months – 1 year
VoT 43	Female, 56, Denmark	Bank frauds and labour	56	>3 year



The profile of the five specialists interviewed is: ADPARE's lawyer specialized in criminal law assisting TiP cases in court; court prosecutor specialized in combating organized crime and terrorism from DIOCT- the Directorate for Investigating Organized Crime and Terrorism- the central level; two policemen specialized in combating TiP from DCOOC- the Directorate for Combating Organized Crime; a policeman from the local Service for Combating Organized Crime, the head of Service for researching into TiP and VoTs monitoring from NATIP at central level and the head of IOM, Mission in Romania.

In terms of limitations, at the level of trafficking in persons for forced criminality purposes there are no coherent information or practices shared by specialists in the field, though the media records cases with clear indicators of this type of offence. Though the NIRM is functional and the existing data is centralized by SIMEV of NATIP, the available data is scarce and the number of identified victims is even scarcer. Due to this, SIMEV only registers individuals who were exploited for constraint to thefts. Since the offence occurs widely at transnational level (in the EU but also outside), information of victim identification is rarely available.

### 3) CRIMINAL FORCED ACTIVITIES AS A NEW FORM OF TRAFFICKING

#### a) National statistics and criminal forced activities as a new form of trafficking

According to the regional report of the IOM for 2014, the proportion of identified victims who are exploited for begging purposes is of 4.0%, to them adding those trafficked for lower criminal acts (3%) or who face combined exploitation (1.0%) such as labour and sexual exploitation.

Below are presented the findings of TRACE- *Trafficking as a Criminal Enterprise*, report<sup>45</sup> on the relevant aspects of the trafficking act (geographical routes and modus operandi) and on its possible evolutions in response to law enforcement,

from 27 February 2015. Romania is mainly a country of origin for human trafficking to other European countries. The figures of the identified Romanian victims exploited either internally or externally have registered a constant decrease from 1240 victims in 2010 to 896 victims in 2014. A cross tabulation of the age and forms of exploitation shows that: a) the majority of minor girls are sexually exploited internally, b) the majority of adult women are sexually exploited through transnational trafficking and, c) the majority of adult men are exploited in transnational human trafficking.

The majority of victims registered by Romanian authorities were female, aging between 18-25 years and to a lesser extent 26-40 years and men aging between 25-40 years and to a lesser extent 40-60 years. As regards younger or older persons identified in human trafficking, more cases of younger age than 10 years old are encountered within internal trafficking sexually exploited compared to external trafficking, while cases aging more than 61 years old are to be encountered in transnational trafficking for begging or labour exploitation, in countries like Germany, Italy, Spain, Cyprus and the Netherlands. Romania is also a country of destination for Romanian citizens (domestic trafficking, 30.7%), based on official statistics evaluating the dimension, intensity, and flows of human trafficking. Domestic trafficking is widely detected, and for one in every three trafficking cases, the exploitation takes place within Romanian borders. There is a particularity between domestic and international trafficking (69.2%) when it comes to the age of the victims. The majority of minor victims, mainly girls, are exploited domestically, while adults are mainly exploited internationally, men are especially used in labour and women especially in sexual services.

The routes and flows of trans-national trafficking are slightly changing over years, the only constant factor being the great share of Romanians identified as victims, out of the total victim population. For the concerned years (2009-2013) the share of victims exploited trans-nationally was at 69.3%. Regarding the routes, it becomes evident that trafficking in Roma-

nian citizens takes place mainly in Western European countries, and when victims suffer exploitation in more countries, the exploitation takes place either in neighbouring countries or along the route to the final destination. The transportation of the victims is mainly done by land ways, with buses, minibuses or traffickers' personal cars, European driving routes being used in this situation. The main countries of destination irrespective of the forms of exploitation, based on registration figures, are Spain, Italy, Germany, Greece, Cyprus, Czech Republic, France and other. Spain, Italy, Germany, Greece and Cyprus are the top 5 destination countries (50.3%) and counted a cumulative share of more than half of the total discovered human trafficking within the analysed period.

Concerning foreign citizens identified to have been exploited in Romania, their number was small. In this period a total of 503 859 cases of victims of trafficking were recorded; in particular Romanian citizens who exploited domestically or transnationally. The table below provides insight in the form of exploitation.

Type of exploitation	Transnational trafficking	Domestic trafficking
sexual 1326	1216	2542
labour 1802	281	2083
begging 325	46	371
thefts 37	5	42
	1548	3490
<b>Total</b>	<b>5038</b>	

According to the report covering the period 2009-2013, concerning Romanians trafficked for the main exploitation purposes, the data analysis revealed some slight differences according to the countries of destinations. While Italy, Spain and Germany are destinations for all forms of trafficking, the Czech Republic and Cyprus are destinations mainly for labour exploitation, France and Poland for forced begging and Austria and the Netherlands for sexual exploitation.

According to annual data provided by the Romanian Prosecutor's Office - the Directorate for the Investigation of Organized

Crime and Terrorism (DIOCTO), the prosecuted traffickers are mainly Romanians; only less than five of them have other nationalities. According to the collected data on the prosecuted or convicted traffickers in Romania, it is impossible to have a disaggregation by forms of exploitation, but based on the assumptions of the Romanian Police, 75% of the trafficking investigations is related to sexual exploitation.

Trafficking related to forced begging and other criminal crimes (street crime, pick pocketing, shop lifter, ATM Thefts) have mainly developed abroad, with a ratio of approximately 88% in the case of Romanians. This evolution has been associated with the large profits obtained in trafficking for begging, in countries with high living standards, but also with a weak policy related to trafficking in persons for the purpose of forced begging or associated crimes, which mitigates the traffickers' risk of being identified

The destination countries for forced begging and committing thefts or other illegal activities for Romanian trafficked persons were: France (76 cases), Italy (60 cases), Germany (47 cases), Spain (44 cases), Poland (24 cases), Netherlands (20 cases), Greece (19 cases), Finland (19 cases), Austria (13 cases), United Kingdom (11 cases), Hungary (7 cases), Belgium (5 cases), Ireland (4 cases), Portugal (3 cases), Switzerland (2 cases), Norway (2 cases), Denmark (2 cases), Croatia (2 cases) and Sweden and Lithuania with one case each. To some extent the destination countries for begging or other illegalities are the same as those for sexual or labour exploitation. Even so, when trafficking for forced begging or forced criminality appears, France, Italy, Germany, Poland, UK, or Hungary are mainly chosen as destination countries by the traffickers for Romanian trafficked persons.

The collection of data on the routes used was difficult due to the limited literature available as well as insufficient knowledge at grassroots level. Much of the information available related to the countries of origin and destination, without offering much insight into the channels used to get from one place to another or without providing insight into the relationship between

gender and age for the forms of exploitation. In fact, both national and European reports rarely focus on the routes used. This gap was partially filled in by conducting interviews (with both victims and experts) and analysing available case studies (from across the country). However, we acknowledge that our research could only provide limited findings. Regardless of the scarcity of data regarding the routes of trafficking it is obvious that European citizens are mainly exploited in European countries.

This report focuses on different purposes of trafficking: for sexual exploitation, labour exploitation and for criminal/illegal activities. While illegal activities could involve an array of actions, the forms most often reported by the researched countries (Cyprus, the Netherlands, Bulgaria and Romania), related to forced begging and committing petty crimes. The latter form of human trafficking is a relatively new phenomenon, and therefore there is only limited information available, this partly also goes for trafficking for labour exploitation. As data is lacking and as quite some similarities have been identified in the modus operandi for the different forms of trafficking, it was decided not to address each form separately, but only to provide specific information, when relevant and available for a certain form, while describing the different stages of the trafficking process and the modus operandi used.

The centralized data on the trafficking in persons situation, released by SIMEV, under the National Agency against Trafficking in Persons (NATIP) for 2014<sup>46</sup>, show the decreasing number of identified victims remains as a tendency initiated two years before and a total number of 757 victims was registered, that is 139 victims less than in 2013 and 397 less than in 2010. In terms of risk factors, the insufficient formal education remains the most prominent (354 victims graduated secondary school at the moment of recruitment, representing 47% whereas 32% had graduated high school or professional school at the same moment). The least frequent category is represented by victims who graduated or were attending the university at the moment of entry into trafficking 1% (9 victims), being followed according to Gauss

by the illiterate victims 5% (37 victims) and those with primary school 14% (106 victims).

However vulnerability to trafficking is not influenced only by the lack of access to formal education, several other factors contributing to creating a vulnerability profile. The lack of employment opportunities in the area of living (mostly in rural areas), the lack of social values, dysfunctional families, the desire to flee from an abusive or neglecting environment of an individual turn into trafficking triggers, influencing individuals to trust and accept risky proposals regarding work, travel, treatment and other coming from friends or strangers.

Compared to previous years, the family situation factor remains unchanged; the majority of victims (547) come from bi-parental families. However, in most cases it is the dysfunctionality of the relations between family members which renders persons vulnerable rather than missing one family member. This contains: domestic violence, tensed relations, alcohol and substance misuse, mental illness.

On the gender and age issues, there can be noted an increase in the number of women, compared to the situation in 2013. Thus, in 2014, out of the total adult victim population (467), 283 were women (61%), compared with the previous year when the number of identified women was equal with the number of identified men. In addition, the most vulnerable age category remains from 18-25 (279 victims). Even so, a significant number of minors (aged from 14-17), that is 251 end up being trafficked.

Regarding the economic context, the difficulties faced in finding a job in Romania as well as the mirage of better gains and employment opportunities continues to determine victims' sensitivity to advertisements and propositions of false jobs abroad, used as main recruitment content (44%).

Moreover, on analysing the social relation between the victim and recruiter, as well as those on the recruitment method, it was observed that 89% of the victims were directly approached by the recruiter (671 victims). In the reported period, 355 persons were recruited by an acquaintance

and 256 by someone unknown to them.

Sexual exploitation remains one of the most common purposes of exploitation. Yet, no exploitation purpose excludes another, thus victims can be exploited for several purposes, according to the needs and criminal environment of the trafficker. Some victims would also be used in begging or in forced labour or child pornography; others were sexually exploited or subjected to other kinds of abuse. In 2014, child and internet pornography together with sexual exploitation were the most prominent, with 66% of the total number of victims, the second being exploitation for forced labour purposes, with 25% of the victim population. Only 7% of the victim population was constrained to beg or commit petty crimes.

By comparing the situations of victims coerced to commit crimes in 2013 and 2014, as these are found in the interview with the NATIP representative, we can observe their number is the same, that is 3 identified persons and their background does not differ much from one year to the other. The table below contains several characteristics of the victims identified in the last two years:

Year	No. of VoTs	Gender	Age category	County of origin	Area of origin	Countries of destination
2013	3	1 female 2 male	1 (10-13 years old) 1 (14-17 years old) 1 (26-40 years old)	1 Constanta 1 Dolj 1 Timis	3 urban	1 Norway 1 UK 1 Romania
2014	3	1 female 2 male	1 (14-13 years old) 2(26-40 years old)	1 Bihor 1 Iasi 1 Neamt	2 rural 1 urban	1 Germany 1 Italy 1 Austria

The cases contained above seem isolated, they originate from distinct regions, have been exploited in different states. These facts do not allow for an analysis of the phenomenon but of singular cases, rendering both prevention and combating efforts limited and reactive rather than proactive. Both the interviews conducted with victims and experts pointed out that the number of victims is much more significant but that they are not identified, either being treated as offenders or the institutions working with such cases do not input data in the SIMVEV. It is even more difficult to collect data at trans-national level when there is no judiciary cooperation between Romania and the destination countries which identify Romanian victims but fail to refer them to organizations and institutions from the origin country. Another issue is related to the manner in which the data is entered in SIMEV, if the victim was exploited for several purposes in the same episode, only the main exploitation type is registered.

All the interviewed victims mentioned that in the same situation of exploitation, at the same time, there were other victims from Romania. In the Wasp Nest case (2014-2015) the number of victims the respondents estimated by the respondents as well as by authorities rises to approxima-

tely 300 Romanians.

The number of persons found in the same exploitation situation differs from one case to another but what is common is that family members of the exploiters (spouses, children, etc) can be found among the victims. For instance, in the case of VoT 1 (from 2003 – 2007), the number of children exploited in the same situation and conditions was 3 (two being the exploiter's offspring). In the case of VoT 3 (from 2014 – 2015), a young man coerced to beg and steal in Sweden, the number of victims in exploitation was 20, both children and adults, some being related to the exploiters. VoT 4, a woman constrained to beg and steal the number of persons in exploitation rose to 6, both women and men, among them first degree relatives of the traffickers.

However, in cases of mixed type exploitation (such as sexual and forced criminality – theft, use of forged money, drug trafficking, sham marriage, situations described by VoT 2, VoT 5 and VoT 6) it is not clear that there could have been kin relations between victims and traffickers, the number of other victims in exploitation being significant. In the case of VoT 2 (2014) the number of women trafficked into sham marriage was of 5, all with the same destination (the UK). In VoT 5's case, the girl

exploited in Romania and Italy, the number of minor victims all found in the same exploitation episode was 28.

*"We were many, didn't know each other, and were not allowed to speak to each other. Only during trial I could see how many we were"* (VoT 5). VoT 7, a young man who from childhood was in exploitation for constraint to theft but also drug distribution, mentions it is hard to estimate the number of victims in the same exploitation situation given the long duration of the exploitation period. *"A neighbour from the foster care proposed me to go to "springs"; we would break into houses and steal antiques. We were 6, all children, the youngest as young as 10. He (the exploiter) was 26 and was working with other children also; we didn't know them"* (VoT 7). The same victim mentions how with the diversification of crimes, the number of children in exploitation would increase: *"At 13 I started with drugs, would sell them in the centre of Bucharest; we were 10 at the time. At 15, he sent me to others, they were older, and they were more, hard to tell how many: all of us were distributing but also selling. I was still living in foster care and was not allowed to talk to the others. This was a rule"* (VoT 7).

#### b) Vulnerability prior to the trafficking process

These children had been in contact with the child protection services before the recruitment as they were considered vulnerable and at risk. Social and economic exclusion, poverty, school drop outs, referral to institutionalised alternative care, neglect, domestic violence and abuse, drug or alcohol abuse of the parents were all mentioned among the factors that rendered the boys and girls vulnerable to exploitation. The impact of these risk factors on children is exacerbated when social and child protection services are weak in identifying, protecting and empowering the children concerned, or when the child's or family's migration status limits their access to protection services.

In Romania, the child protection services are struggling to offer quality services for all vulnerable children and families as

the resources are limited. Children who have dropped out of school are considered particularly vulnerable as they are not reached by the child protection services.

While being exploited, it is not unlikely that the children are taken in by the police or social services in the context of standard controls, immigration controls or when they are found to have committed an offence. Getting in contact with the authorities does, however, not necessarily lead to an improvement in the child's situation. On many occasions, the police and social services handed the child back to the accompanying adults, even when these were not their parents, and when the child's safety with these adults could not be guaranteed. In some of the cases the exploitation continued after the child was handed back.

As a result of the interviews with experts and victims, we identified vulnerabilities of different categories of persons depending on the exploitation for the different criminal activities. According to age groups, minors are identified as more vulnerable due to the fact that they are dependent on adults and they have reduced capacity to anticipate actions, to decide for future; with some differences in the cases of minors, who have families, are from child care institutions or they are street children, those who are "looking" for protective adults. On the other hand, the minor's contact with criminal environments seems to be more important than belonging to a family. Regarding minors, the interviewed experts considered that the exploitation for the purpose of constraint to commit crimes is, in most cases, secondary whereas the main exploitation purpose is begging and less frequently sexual services.

Synthesizing the vulnerability to exploitation, as seen by the experts we have the following characteristics:

- Age: children and adolescents under 18 years;
- Education: low level of education or no education;
- Behavioural attitudes: psychologically inclined to risk taking behaviours, having suffered violence, neglect, abandonment, including domestic abuse and

sexual violence;

- Affiliation to socially vulnerable or marginal groups: children from at-risk families, such as low income families, with alcoholism, dysfunctional families and victims of domestic violence, children left without parental care or abandoned in children's care institutions, orphans or street children;
- Ethnic groups: members of ethnic groups segregated from the general population; ethnic groups from the poorest areas; the most criminalised ethnic groups or those perceived as the most criminalized<sup>47</sup>as Roma.

The last reports on trafficking in Europe, highlight the increasing number of children trafficked throughout the EU. Current reporting indicates that social security, welfare and benefits systems are being targeted by traffickers using trafficked children to support and justify claims linked to family and housing benefits. In all the reports the Roma children from Romania are mentioned in addition to the commission of street crime offences. The difficulties to identify these children are related with the fact that very often the victim's parents or other members of the family network are accomplices in the trafficking of the child.

Concerning the **adults** vulnerable to exploitation for forced criminal activities the characteristics are hard to be defined, given the diversity and complexity of criminal activities, as bank frauds, carrying and distribution of drugs, sham marriage, trafficking of pregnant women for illegal adoptions and thefts. In their case, experts mention the commission of offences as the main purpose of exploitation. In addition, the interviews conducted with victims reveal that the main purpose of the recruitment has been in such cases the constraint to commit crimes and while at destination the victims have been exploited for begging, forced labour and sexual purposes.

Even though some features may come out, according to victims and experts:

Age: both men and women, between 19- 30 years old, exploited for all of the aforesaid criminal activities; adult men,



between 30–60 years old, for bank frauds;

Education: from primary school education to people with high school education and professional training;

Behavioural attitudes: persons in search of a job abroad, persons with a criminal record, persons with history of aggressive behaviour, alcoholism, coming from dysfunctional family environments: men whose wives have separated, took their children and went to live abroad; persons with mental health problems (or with disability); women exploited within the communities, such as the case of pregnant women exploited for illegal adoption purposes;

Affiliation to socially vulnerable or marginal groups: dis-occupied adults with or without professional experience, coming from other parts of Romania, characterized by high unemployment rates and little employment opportunities; persons who benefit from social aid as a consequence of disability and/or poverty, or coming from areas with a migratory “tradition” to various European countries; persons who got significant debts to banks, utilities, local tax offices as well as to the owners (persons and municipalities) of the houses in which they live with rent;

Ethnic groups: in case of adults, belonging to an ethnic group did not prove to be evident, with the exception of pregnant women trafficked for illegal adoptions who self-recognize to be Roma and usually who belong to the same extended family from the same town in Romania.

In the EU TRAFGUID<sup>48</sup> at the question “Can anyone be a victim of trafficking for exploitation of criminal activities?” it is stipulated that “*anyone can be a victim of trafficking for forced begging or exploitation of criminal activities: men and women, adults and children, nationals and foreigners, regardless of their legal status can be victims. Some people are more at risk such as migrants, especially if they have already been involved in such activities in their country of origin, or persons who have been involved in criminal activities before, even without having been forced, or people from some communities / minorities who may be forcibly recruited by other persons from their community, or*

*the homeless and street children or other children without guardians as they are easy targets for criminals who can recruit them to perform begging under coercion or criminal activities.*”

In the recent country research conducted under the frame of CONFRONT<sup>49</sup> project on trafficking in Roma children, belonging to a certain ethnic group was identified as one of the vulnerabilities traffickers take advantage of. With regard to the examined purpose of exploitation, Roma communities have been identified as highly vulnerable to the exploitation for the purpose of committing street crimes and of begging. It was further indicated there were no significant differences between the general vulnerability factors and the vulnerability factors met in Roma communities with a focus on discrimination as main vulnerability factor, as it restricts access to public and social services as well as to employment opportunities.

According to the findings of the current research, as stated by the victims self-recognized as Roma, it is revealed that they had access to education and social protection services but that social protection becomes ineffective when there is a high rate of poverty and when it is difficult to find work adjusted to traditions of Roma communities, by identifying potential employers as acting in a discriminatory manner given the ethnicity of potential employees.

Such context highlights the economic exclusion of Roma groups, which further influences a propensity to indebtedness and a higher risk for exploitation. In line with the research findings, the indebtedness predisposition and the existence of debts (to neighbours, shops and unpaid utility bills) is a major trafficking factor. Often, Roma persons seek help from the informal money lenders, known as *camatari*, who demand high interests and make use of repressive measures to obtain payment. *Camatarii* are known to use extreme violence to get money back. Other means to ensure debts are paid include constraining the indebted to beg or commit crimes, this applying both for the indebted and their children.

In some cases, sometimes families of Roma minors perceive sending their children abroad as the only way to offer them a

better life. Sometimes parents have knowledge that their children will be involved in criminal activities, especially in cases of children entrusted to members of extended families or to other community members. Data coming from experts reveals that it is quite often that Roma children are accompanied by one or both parents who coerce them to steal and beg. In such cases, the behavioural pattern of the parent is what keeps the child in the exploitation cycle, leading the child to consider the criminal activities as a normal act, “for the sake of the family”. The identification of children who are exploited by their parents is much more difficult as these children experience false positive emotions of self-value whereas their growing up in criminal environments determines anti-social behaviours and high reluctance to exiting the exploitation”.

Although the central and local level authorities in Romania and other European States are aware of these cases, there is little evidence as to whether the children are exploited and if they are victims of trafficking. They are often looked at as ‘street children’, children in conflict with the law. The possible links to organised exploitation and trafficking are not necessarily recognised and investigated, the involvement of children in begging and petty crimes being perceived as a “cultural issue”<sup>50</sup>. The Roma children who were exploited in criminal activities were mostly used for thefts and benefit frauds.

In the “Report on the relevant aspects of the trafficking act (geographical routes and modus operandi) and on its possible evolutions in response to law enforcement”<sup>51</sup>, the majority of the Romanian trafficked persons were male (66.5% of the total), mainly adults who were exploited for begging. Boys are mainly exploited for committing thefts or for other street criminal activities. Regarding the age profile, it is very diverse. For example, persons older than 61 years or younger than ten can be found in situations of forced begging, this diversity is found to a lesser extent in labour exploitation or other exploitations type. It can be concluded that the traffickers take advantage of age vulnerability.

Regarding the **area of origin of vic-**

**tims**, based on the interviews, the victims, adults and minors, originate both from rural and urban areas. Other factors contributing to victims’ vulnerability to trafficking for forced criminal activities are: isolation and lack of support network, local “history” of migration in their origin area, debts and strong activities of trafficking criminal networks.

The conducted research led to the identification of the characteristics for the **material and professional victims’ status** prior to trafficking.

Both the experts and victims have pointed out that in cases involving minors, the economic conditions experienced before recruitment were scarce, whereas in cases involving adults, precariousness was generated by unemployment or losing employability due to physical/mental condition or dissatisfaction with the promised salary.

The four victims, respondents, who were minors during recruitment had various economic situations, particularly regarding the boy sold after birth (Case Study 1), the vulnerability was not determined by the material resources of the family but by the environment of crimes in which the child was born (the maternal grandfather, self-recognized as Roma arranged the selling of his own nephew), corruption (the manager of the maternity hospital and a public notary were involved in procuring false identity documents for the child and in the selling) and the teenage mother who was not consulted to take decisions for her child.

In the case of girl victims, also minors at recruitment (VoT 5 and VoT 6) the pre-trafficking conditions also differ a lot. Both recruited while in school, they come from dysfunctional family environments and if in the case of VoT 5 both parents had psychiatric conditions, in the case of VoT 6, she grew up in a family self-recognized as Roma, with numerous children, permanent social aid beneficiaries, misusing alcohol and who abandoned the girl soon after her birth, her growing up in both state and NGO foster care.

Concerning the boy recruited at 12 from foster care (Case Study 3), he was abandoned in front of a church soon after his birth, has no knowledge of his family and

grew up in several foster care units. At the time of his recruitment, he was also a pupil and was assisted in state foster care units.

On the two minors, recruited while in foster care, vulnerability is mainly influenced by the need to attach and engage with an adult, and less by the material/economic status. Both recruiters took advantage by their emotional vulnerability of the two: “*I used to call “mom” a lady from the shelter. This is how she was... like a “mom”*”. (VoT 6) “*I called mom the Director of the shelter, as she gave me the name from the birth certificate. I had been given several names before the Director gave me her surname and a name*” (VoT 7)

In the case of adult victim respondents, the precarious economic condition is significant among those from the Roma community (17 adults self-recognized as Roma out of the 39 interviewed). Out of the 17, only one worked as a permanent employee, with legal documents in a factory, the others doing undocumented work in constructions or in commerce (4 victims) or worked daily jobs in agriculture (4 victims), the rest being beneficiaries of social aid and not performing income generating activities. 3 of the 17 victims self-recognized as Roma have criminal record for theft and robbery, one being on probation at the time of recruitment (VoT 2). The 17 victims have emotionally supportive families.

For the remaining 22 adult respondents, the economic condition varies on a case by case basis as follows: have stable residence, supportive families (with two exceptions) and dependants, have professional qualifications and working experience, the majority being either retired or employment at the moment of recruitment. The qualifications had by the respondents are: tractor driver, landscape worker, badminton instructor, receptionist, marble carver, mason, steel-concrete fixer, animal breeder, producer in agriculture, utility climber.

The two adult victims in state of homelessness and without family support have experienced abandonment by their families, grew up in foster care and have professional qualifications (commercial agent and wood carver and carpenter) but have no stable job or house, one living on the

street for 18 years. Being recruited through propositions for jobs abroad, the interviewed adults gave up their jobs in Romania, planning to work abroad for a while then come back to their families and improve their economic status.

On family relations in case of adult respondents and particularly in case of men aged between 31-45 years, many of them have been living with their parents, are divorced and their children are in the guardianship of their former wives, who later left to live in other European countries (mainly Italy) or are single men, have no stable couple relations and live with their parents.

As the NATIP study on trafficking for the exploitation of begging points out<sup>52</sup>, according to the regional or local particularities, the commission of crimes previous to the trafficking period if present was either registered or not by the judiciary: “*...some of the victims have criminal record for crimes committed before their trafficking, many of them coming from environments fostering the commission of crimes*” (specialist in combating organized crime).

### c) The recruitment and the relation with the recruiter

According to the interviewed experts, as well as from the interviews conducted with victims, indictment documents, ADPARE internal database analysis, in case of trafficked children, recruiters are most of the times persons close to the origin families, members of the family, money lenders of origin families, members of the communities hosting the shelter for children, persons from the school environment, briefly put, known persons. Recruitment is done directly, without intermediation.

In case of adults can be met known recruiters – friends or family members but also unknown persons who use the already recruited victims (for jobs abroad) to recruit other potential victims (Case Study 2). Most of the adult respondents victims have consulted with their families on the job offer abroad and the entire family participated in the decisional process.

“*I spoke with my mother and she said it would be better if I accepted the propo-*



sition to go to Sweden, as I had experience with children anyway. I used to help her caring after my brothers.” (VoT 3 - answer to the recruitment proposition to work in Sweden as babysitter)

In the case of victims trafficked to Denmark, leaving home was a joy to the family, as they believed it would bring an improvement of the financial situation:

“I used to work at a tannery, didn’t earn much and I felt happy about doing a better paid job in Denmark. I wrote my resignation and the entire family was happy and hoped we could finally fix the house and lead a better life.” (VoT in Denmark)

“I worked in the coal mine and this is why I got anticipative retirement. Since I retired it felt as if I am no good. When they proposed me to go to Denmark and work, we all felt happy about it. I could keep my pension and do something good for my family, I could help my daughter who is a student in Bucharest, buy a house for her.” (VoT in Denmark)

The recruiters in the “Wasp Nest” case have been in most of the cases persons who were well known and trusted by the victims, so that many of the latter had no suspicion they would end up in exploitation and those who did expect some kind of exploitation were those with experience in working abroad or who had been previously exploited for forced labour purposes.

#### d) Domestic trafficking

Romania is mainly an origin state for persons who are trafficked for the purposes of sexual exploitation, forced labour, forced begging and constraint to commit crimes. In addition, Romania is increasingly becoming a source for domestic trafficking, especially of minor victims for sexual exploitation purposes. There is no official statistic referring to internal trafficking for forced criminal activity purposes and the results presented below have strong limitations, only mentioning the qualitative data provided by 3 victims of trafficking (VoT 5, VoT 6, VoT 7) and experts.

Both the interviewed experts and victims perceive the exploitation for illegal

activities as secondary to the domestic exploitation for forced begging or sexual exploitation purposes. What is more, the two victims who were minors during exploitation (VoT 5 and VoT 6), were exploited in Romania, the first exclusively in domestic trafficking as for the second, as she turned 18, was sold and exploited in Italy. Both were exploited for sexual purposes, in private apartments and were coerced to commit crimes – steal clients’ mobile phones, wallets, house burglary or steal cash money to purchase drugs for the traffickers (VoT 6) or use forged money, steal jewellery or other objects of value from the clients’ houses (VoT 5).

“At the age of 17, I entered the world of drugs, sex and thefts. My life was on the street, in studios, in abandoned buildings, in cars, hotels, ghettos... all the time on the move, here in Romania or in Italy. By stealing from the clients I even earned 1200 euro/ day for them, especially when clients had valuable items. In any case, I would produce 600 lei (approx. 130 euro/ day) from intercourse with clients and to this money added stolen mobile phones. I would eat from the garbage bin, gave them all my money and would receive in return a methadone pill. If I kept money from them, they would find it and beat me up. So they did when I ran away from them. In Italy, they caught me, beat me up and moved me to a smaller town where they made me shoplift.” (VoT 5)

Similarly, the boy who was recruited at the age of 12 (VoT 7, Case Study 2) described how for 6 years, that is until he became adult, was exploited domestically, exclusively by constraint to commit crimes:

“Initially he taught us how to do “springs”, we would steal antiques from houses. I was the thinnest, so I could enter through the bathroom window and open the door for them. We were 6 children, three from foster care, and three from his Roma family (the trafficker’s). He was 26 back then but we were young... the youngest was 10. Everything we stole would be stored in his house and we had the task of “placing” these items; gold and antiques to a guy at the fair. At 13 I started the drugs thing. We were 10 kids this guy coordinated. He gave us the drugs, the cocaine, the heroin

portions and we were sent to several areas from the centre of Bucharest where we would meet with the buyers. We were not allowed to speak. He arranged everything on the phone. He bought us nice clothes and... I continued to live in foster care until I turned 18. I was afraid to tell anybody what went on as he threatened he would rape us and make fools out of ourselves. He even had a gun.” (VoT 7)

The three minors who were domestically exploited tell the story of other children found in the same situation, thus only by considering these three cases, the number of victims who were exploited in Romania for begging and/or forced criminality purposes is considerably increased. As in the case of VoT 7, other 9 children, both Roma and non-Roma, were in exploitation and in the case of girls, together with VoT 5, other 28 girls were kept in exploitation (confirmed by the trial case) whereas in VoT 6’s case, other 5 girls were kept and exploited in similar conditions.

According to the ADPARE lawyer, one of the examples of cases he assisted in court goes back to 2007, when he represented several Roma families from the western part of Romania, who accused the Romanian state of discrimination for having offered them social housing in an isolated area of the city, but during the trial it came out that this isolation increased Roma children’s vulnerability to exploitation for forced criminality purposes. To be able to cover costs for travel and accommodation as they were leaving for Hungary for seasonal jobs, parents have lent money from *camatarii* in their communities but the increased interest rates did not allow them to return the money. Knowing that there were children left in the care of their grandparents back in Romania, *camatarii* started to exploit 20 children in Romania and Hungary, by forcing them to steal and beg. These children were of similar ages, 12, 13 and would constantly get beaten if they did not succeed to raise the daily quota, considered as interest to the loan the parents made.

“They would choose only children younger than 14, as they could not be held legally responsible. The parents were constantly threatened and so they appar-

ently “agreed to sign notary documents allowing the children be taken to Hungary and exploited” (lawyer, ADPARE, specialized in criminal law and assisting trafficking in persons cases).

Cases of minors and adults exploited in Romania for forced criminality purposes do appear in the media. Such a case had media coverage in May 2015, when two adult men were sent to trial in Eastern Romania for trafficking in persons, blackmail, and association with the purpose of committing crimes. To better understand the case, the article cites from the indictment document, as follows:

“The two men were recruiting and accommodating various persons, either by use of force or by offering of benefits (financial or residential related) persons they would exploit by obliging them to steal coke from the trains parked or passing by, thus during 2012, the group – the two men and others “attacked 184 trains carrying coke and in trying to repress these actions, 116 guards suffered various harms and traumas, three labour accidents being registered”

The same DIOCT indictment document indicates 2011 as year in which the exploitation started and mentions that the victims, persons in state of homelessness have been coerced to “commit theft and were deprived of their freedom in conditions similar to slavery”. Thus, the accused “used on purpose, persons in state of homelessness, who lived in the sewers of Galati city, some with various physical and psychological disabilities. Persons with little formal education and no social status, with nobody to care for them or help them in case of need would easily end up in exploitation. Victims were attracted by the fact that they were promised work, salary and accommodation but as soon as they arrived to the building which was supposed to accommodate them, they discovered they had been cheated, having to sleep 8-15 persons in a room of 12 square meters. What is more, the dwelling had no facility and the food came from the garbage bins they had to search into.”

The victims were made to involve into organized activities, coordinated by the accused, “slavery-like activities in which

victims were “herd” like animals into armed conflicts against the guards of the compound, under the hit of whips and who would ceaselessly yell fight orders and threaten victims with violence to make them comply with their orders” further points out the indictment document of DIOCT.

During these thefts, victims risked either being shot, and this actually happened to a person, or be caught in the act and be investigated for a crime they had not committed. The coke was further sold by the accused and the exploited would receive payments between 10-50 lei, while the accused obtained 2000 lei for 3000kg of coke. The prosecutors recorded that the two accused sold 389 680 kg of coke and obtained a profit of 260 000 lei. All interviewed experts mentioned that the domestic trafficking in persons for forced criminality purposes exists as phenomenon, but data is not disseminated, thus leading to the non-identification and non-assistance of victims, and lack of adequate basis for prevention activities. “As in any crime, there is a social danger, but in order to identify the social danger and take measures, the practice, precedent and information must exist” (NATIP expert).

#### e) Trans-national trafficking

For minors, the travel involves accompanying the adults with valid identity and travel documents as well as with forged documents. Third persons who travel with children in order to exploit them often recruit children in their origin families and carry authorisation documents signed by their parents. While travelling with the exploiters, the children became dependent as these adults were their only contacts in a foreign country where they did not speak the language and had no money. The most frequent means of transportation used by organized crime network are international coaches and private cars of members. According to existing reports, the main destination states for this type of exploitation are similar with those for the purpose of begging, given the fact the two exploitation types are in most cases interwoven.

In order to get a glimpse on the mobility in cases of minors exploited for forced

criminality purposes, we analysed the data from the indictment document of Corduneanu<sup>53</sup> OCN, concerning two of the injured parties, the clan being described as “clan, organized crime network with multiple national and international extensions”. Both injured parties had been minors at the moment of recruitment, the boy being 13 and the girl 17. They were recruited together with other children from Romania, “as a consequence of their precarious situation”, taught and forced to steal from handbags, from 2005-2008 in countries such as: Spain, Italy, Germany, the UK, Sweden, Denmark and Switzerland. They would be moved and transported in OCN’s cars between Romania and each of these countries. Though they had been caught and held in police custody quite often, the two “received help” from members of the OCN who hired them lawyers, to ensure their release and re-entering into exploitation. If they refused to comply with engaging in criminal activities, the two children were beaten, terrorized and deprived of the hope they would ever find an exit to this situation: “those who stole for the benefit of Corduneanu family were kept in state of serfdom by fear, all having knowledge that in case they tried to lie, steal from Corduneanu or run, they and their families would have been searched for by the clan, would have been beaten and “fined” if found. The “fines” represented large amounts of money, with quick payment deadline. Should they fail to pay such amounts, they doubled and the persons would become indebted for life” (extract from the indictment document).

However, the small family-based networks do not have such a significant mobility at trans-national level, being reduced to the territory of the minors’ place of origin. “They would move me to places where there were fairs and festivals, where there were a lot of people; this is how I saw the entire Spain” (VoT1).

In case of adult victims, the transportation to the destination states is ensured by the same means, that is coach and personal car of the OCN, but victims travel alone and are awaited for at the destination. In the “Wasp Nest” case (Case Study 2), the traffickers wired money to some of the victims in order to buy cars and transport



other potential victims to Denmark. The instructions were clear: the cost of the car should not exceed 1000 Euro; it should not be registered in Romania, thus unknowingly some of the victims had been the transporters of other victims.

The duration of the exploitation period varies according to the type of illegal activity trafficked persons are coerced to perform. In case of thefts and drug trafficking, the exploitation period is lengthy, being extended on several years, whereas in case of bank frauds, sham marriage and illegal adoptions, the exploitation lasts until the exploitation aim is achieved (obtaining loans, conclusion of adoption process, marriage) or until the law enforcement intervenes. For instance, the victims trafficked in Denmark could only remain on Danish territory for 6 months from the “application for the bank loan”, after this period banks start to recover the debts.

According to experts, the period spent in exploitation differs according to the age of victims. In case of adults it can be shorter, until victims become aware that the situation does not offer any kind of opportunity, satisfaction or does not correspond to their expectations or represents a real danger to them, and further try to escape exploitation. In case of minors or persons with disability there is long term exploitation. The period spent in exploitation by victim respondents to the research was between 2 weeks to some months (not exceeding one year), minor victims reported periods varying from one to 10 years, for the boy used in robbery and drug trafficking (VoT 7).

#### f) Sectors of illegal activities

The EU Directive considers forced begging and the exploitation of criminal activities as forms of labour exploitation. The expression “*exploitation of criminal activities*” should be understood as the exploitation of a person to commit, inter alia, pick-pocketing, shop-lifting, drug trafficking and other similar activities which are subject to penalties and imply a financial gain<sup>54</sup>. Trafficking in persons for illegal activities, including forced begging comprises a broad range of exploitations found in

all the four study cases. It includes: forced begging, illegal adoption, selling of babies, committing petty crime (shoplifting, street crime, pick-pocketing), forced criminality, ATM theft, drug trafficking, illegal marriages, forced drugs crime, fraud offences, benefit fraud, and others.

As it results from the research, there are very few cases in which persons are trafficked solely for the purpose of constraint to commit crimes, particularly for drug trafficking and illegal adoptions. For the other criminal sectors a person may be subjected to several exploitation purposes in the same trafficking situation. However, experts identify the purposes of commission of crimes and begging as most prominent in this type of exploitation. By researching into trafficking in persons/minors investigation files as well as the media reports, we observed that they are perceived, analysed, researched as forced begging cases.

The most famous case of trafficking in persons for forced criminality purposes, with media coverage both in Romania and the UK, is the GOLF/Tandarei/EUROPA case. The case appears both in the media and in the indictment document, in Romania being entitled EUROPA and the trial being on-going. According to the<sup>55</sup> ANITP study on trafficking in persons for forced begging purposes, the case goes back to the 90s, when some Romanian Roma from Tandarei decided to immigrate. They returned to the country with expensive clothing, rich cars and opulent lifestyles, all resulting from social benefits or crimes committed in foreign countries. Then they started to bring along their relatives, including children to cash the state allowances (600 GBP/child/month, a much higher amount than the one received similarly in Romania). Their intention was strictly linked to obtaining social benefits as they never integrated in the receiving society. In addition to this activity, they started to beg and even commit crimes such as pick-pocket and shoplifting.

Gradually they started recruiting other children, coming from poor families, who were recruited by being promised money and a better life. This was possible given the high suggestibility of these persons,

living in distress and not knowing their rights or whom to turn to for help. The families were promised their children will benefit from social aid provided by the UK, their children will go to school and have a better life, whereas their families could use some of this money. Soon the traffickers started recruiting from other places, even neighbouring counties, as an exchange for erasing the debts of these children’s parents. The same provision would be applied to adults, used both for begging and for constraint to commit crimes. To ease the process of moving minors abroad, the OCN developed links with notary offices which would agree to providing necessary documents or even forging them if needed. The OCN also recruited as staff persons without criminal record, who were used only to accompany children while crossing the border. The *modus operandi* of the network, as described in the investigation file<sup>56</sup> included recruiting and transporting of a large number of children, from 6 Romanian counties to Italy, Spain or Belgium, some remaining at these destinations whereas the others were further moved and transported to the UK. The OCN members also recruited Roma persons coming from poor families or with physical disability that they transported abroad (in Spain, Italy, France, the UK) and used to steal, beg and wash car windows. Trafficking in minors aged between 8-16 years old implied low risks as children identity papers could easily be forged (birth certificates having altered the date of birth or name of the parents or name of the child) and represented one of the most profitable for the OCN.

The transporters were also members of the OCN and had the role of ensuring that the border crossing will occur without complications. One of the factors fostering this development of the OCN is also linked with the limitations of local authorities and it further influenced the lack of consequences of inquiries on undeclared goods (even though the OCN members didn’t have any sources of income they owned land, houses and cars, evaluated at hundred thousands of Euro) and the lack of investigations on the financial level of migrants returned home. In addition, one of the professionals involved in investigating the case appreciates that shortcomings

have also occurred in the intervention of British authorities as most of the trafficked children had been previously held in custody by the British police and were already registered as offenders (of deeds with low social danger).

The EUROPOL<sup>57</sup> presents the case as an example of bilateral cooperation for the combating of trafficking in minors for constraint to commit crimes, its investigation being described as a success, even though the protection and assistance of these children had been limited to isolated interventions rather than continuous and had only short term effectiveness.

30 October 2010 - Twenty eight children were rescued as part of a major joint operation led by the UK Metropolitan Police and Europol. The operation, finalised in October 2010, was part of a wider investigation called Operation Golf, which consisted of a Joint Investigation Team (JIT) between the Metropolitan Police and the Romanian National Police. The aim of the JIT was to tackle a specific Romanian organised crime network that was trafficking and exploiting children from the Roma community. To date, the investigation has led to the arrest of 126 individuals. The offences include: trafficking human beings (including internal trafficking in the UK), money laundering, benefits fraud, child neglect, perverting the course of justice, theft and handling of stolen goods. Court cases are on-going. The operation’s primary aim was to safeguard the potential child victims and involved 16 addresses being searched in Ilford, Essex. The children found were taken to a dedicated centre staffed by child protection experts from the police, the local authority and local health trust, where individual assessments were made on each child. The assessment process examined the welfare of the children and sought to identify if they had been subject to exploitation and/or neglect. Europol was an active member of the Joint Investigation Team (JIT) and provided assistance to the competent authorities

The issue is that British authorities treated these children strictly as minor delinquents and not as potential trafficked

victims. Had the authorities tackled more rapidly this phenomenon, it wouldn’t have increased that much.

Following press monitoring and information found on the judiciary web portal, on the number of active trials under the offence of trafficking in minors for forced criminality purposes, it resulted that the phenomenon is not new for Romania and that this crime has been investigated even before Romania’s admission to the EU. According to VoT 1 (Case Study 1) it is clear that this purpose of exploitation is not new but it gained more attention in the eyes of authorities. “*It wasn’t the first time they took me out of the country* (2003, aged 7). *They hid me in the luggage because I was small and still they took me out of there. There were no proofs and „mother” begged with me in her arms when I was a toddler.*” (VoT 1)

In 2007, soon after Romania became an EU member, the Italian media describes how the Milan police succeeded to annihilate a trafficking in minors OCN, by arresting 25 Romanians for “*trafficking in minors, thefts, burglary, gambling and camata*”. The information cited in the Romanian media indicates that: “*the policeman established that there were 34 Romanian minors illegally introduced in Italy and exploited. According to the investigators, each of the 25 arrested adults would obtain a daily income 500 and 1.000 Euro*”

Another case, the same crime, dated from 2005, investigated by SCOC and DIOCT is from the region of Moldavia. According to the press releases<sup>58</sup> at the moment of sending the case to trial, the law enforcement officers succeeded to dismantle an OCN consisting of four members who were transporting youth to Italy and Austria and further coercing them to pickpocket and rob supermarkets or large commercial compounds. Starting with 2003, the traffickers took to Austria some minors they had recruited from Neamt County. The traffickers obtained travel documents for the minors and ensured their transportation to the destination. The majority of minors came from poor Roma communities and were taken out of the country with their parents’ “consent”.

As soon as they reached their destination, the children were trained to pickpocket. The heads of the network had accomplices involved in transporting children abroad and in collecting the stolen goods. The profits obtained were wired via banking operations to Romania or even by international coach drivers. In only two years the OCN members moved freely between Romania to Austria 140 times. The children would be supervised every day by a member who also had the task of collecting the stolen goods from the children. In two years of activity, the earnings rose to up 200 000 Euro in cash while the value of in kind earnings could not be exactly estimated. The heads of the OCN were incarcerated by the specialized Romanian police unit and were accused for trafficking in minors, establishment of OCN and money laundering.

An article from the local media describes the case of one of the exploited children: in 2002 the four men recruit a child aged 12 at the time. As they avoided getting in trouble with the child’s parents, they insisted they had the best intentions concerning him and obtained the notary agreement of the parents on the child’s migration. From that moment on, the child would be exploited for two years, both in Austria and Italy (Milan). Between 2012 and 2014, three touristic passports have been issued on the name of the child, 35 crossings of the border being registered, this one child bringing profits in the OCN of over 60.000 Euro<sup>59</sup>.

On the other hand constraint to commit crimes is often interwoven with sexual exploitation, both in minor and adult victims. In the context of this research, in the case of VoT 5 and VoT 6 the primary purpose of exploitation was sexual but later on both girls brought profits for the networks by committing theft. Similarly, as recorded by the media, a network of traffickers from the SW Romania was recruiting women and girls by promising them well-paid jobs in Spain, instead exploiting them for sexual and forced criminality purposes. The network would issue false identity papers for the girls, with the support of a Russian network of forgery. The traffickers, self-recognized as Roma went as far as to exploit one of their nieces, aged 15. “From 2011-



2012, under the false promise of jobs abroad, these transported them to Spain, the region of Alicante, where they coerced them to shoplift and engage in prostitution. The traffickers would entirely benefit from the incomes generated by thefts and prostitution<sup>60</sup>. During a raid, the Spanish police retained the minor niece who was later on allowed to go given her underage status. "To avoid complications, the uncle and aunt obtained false identity papers indicating she was an adult from the Russians". Following the police raid at the house in which the girls were sexually exploited, the traffickers were taken into custody but were released 48 hours later, at a later time migrating to Italy and then to Germany and continuing their criminal activities.

From the interviews conducted with the two victims found in the ADPARE assistance programme, both minors while in exploitation, it can be inferred that though the main purpose of exploitation was sexual, both girls were also used to steal from their clients. What is more, one of them was forced to purchase drugs for the OCN members and even to use false money.

#### g) Sham marriage

In the trafficking in persons frame, sham marriage is considered another type of constraint to commit crimes. Coming as a solution to the needs of third country nationals of having residence rights in European countries, traffickers take advantage of some women's vulnerability by promising them between 2000-5000 Euros to accept short term marriages with third country nationals. In fact, these marriages prove difficult to terminate, the amounts of money obtained by the traffickers are more significant than the promised money. Practically, these women are sold for amounts of approximately 1000 Euro and are constrained to remain in the marriage until the husbands actually obtain European citizenship

A "sham marriage" or "fake marriage" is a "marriage of convenience" entered into purely for the purpose of gaining a benefit or other advantage arising from

that status. While referred to as a "sham" or "fake" because of its motivation, the union itself is still legally valid if it conforms to the formal legal requirements for marriage in that country. Arranging or entering into such a marriage to deceive public officials is itself a separate violation of the law of some countries. In the United States, sham marriage for purposes of immigration fraud is a felony. After a period, a couple often divorces if the marriage is no longer useful<sup>61</sup>. According to a 2013 Home Office document in the UK<sup>62</sup>:

*"A sham marriage, or marriage of convenience, or a sham civil partnership describes a marriage or civil partnership entered into for immigration advantage by two people who are not a genuine couple. A sham marriage or civil partnership is to be distinguished from a marriage or civil partnership entered into by a genuine couple where it may be convenient for immigration or other reasons for the couple to be married or civil partners."*

The data concerning constraint to enter sham marriage are limited to a few cases only, therefore the research analyses two of these cases, of clients assisted by ADPARE, in the period 2013-2014. The women, aged 24 (VoT 2) and 29, self-recognized as Roma, were identified as victims of trafficking in human beings for sexual exploitation purposes in the UK and Cyprus. According to the risk assessments, both victims were recruited in Romania under the promise of short-term marriages with foreign citizens found in the abovementioned states. The women were told they would remain married for a period of maximum 6 months when they will receive approximately 2500 Euro and return home. In both cases, as soon as the women reached the destination, the future husbands refused the marriages (the first because the woman did not speak English and the second because the woman was addicted to drugs). In order to recover the transportation costs the traffickers further used the women in sexual exploitation. Moreover, VoT 2 was also exploited in Ireland.

As resulting from the interview with VoT 1, she alleges that she met a Romanian man through another male friend in

her home town in Romania. This man offered her 2500 euro to go to London and marry a Pakistani in order for him to obtain a visa. She stated that she was unsure about the proposition but after speaking with her mother she agreed to go to London with this man. They travelled to UK by car and ferry and she states that four other women were also brought. She states that when she arrived in London, the Pakistani refused to marry her as she did not speak English, thus the woman ending up in exploitation both in the UK and Ireland. Similarly the second woman was trafficked to Cyprus, with the particularity that she was addicted to drugs and suffered from medical conditions associated with long term drug use.

*"He (the trafficker) told me everything would be solved in a month. I have two daughters and one is ill. I discussed this with my family and I accepted. I wasn't expecting he would use me for anything else"* (VoT 2).

The common elements identified in the two cases are: both women had criminal records, had been incarcerated and were frequenting criminal environments; in both cases the family agreed to the sham marriage and the traffickers were coming from the same environment as the victims, were persons known to deal with pimping and sexual exploitation of others and both propositions were done directly, without intermediation.

Following the media monitoring of the subject, with subsequent limitations of such sources, we noted the existence of several Romanian online fora with this topic of discussion, numerous women are actually requesting information on the marriages with men from third countries. The example below is conclusive: online forum, Bucharest, 09/11/2011; title/subject: marriage with a Pakistani in the UK: *"I need an opinion on a proposition I've been made. In two months time I am to leave to a friend in the UK. She proposed me to marry with a Pakistani in exchange for 3000 GBP in order for him to obtain a residence visa in the UK. In a month time he would divorce and it's not necessary that we live together or engage in any relation...it's all in the papers..."*<sup>63</sup> As presented, the situation clearly points

out the deception as it is not possible to obtain residence rights just in a month and the amounts offered by Pakistani for this exceed the stated amount, thus existing a possibility that the friend be involved in a trafficking in persons network for sham marriage purposes.

#### h) Illegal adoptions

According to statements of legal experts and the police from Greece in 2006, an increasing number of people unable to adopt children through official channels are resorting to other methods in Greece, where private adoptions were unregulated and "traffic in babies is thriving"

In the article *"Baby trafficking is thriving in Greece – Europe"*<sup>64</sup>, "the most of the babies for sale in Greece are brought here by impoverished women from Bulgaria and other Balkan countries". Most of the mothers are Bulgarian Roma and "are paid about 4,000 USD for relinquishing their infants". In the same article, the case of Romanian mother is given as an example: *"In the most recent case to come to light, a 16-year-old Roma girl from Romania is under arrest after complaining to the police that she had been cheated out of €14,000, or \$18,000, promised to her by a British woman who allegedly abducted the infant in Athens during negotiations over the price last week."*

As in the other sectors under the constraint to commit crimes purposes, the information on such cases, involving Romanians are scarce. In the interviews conducted with two officers specialized in combating organized crimes, they mentioned a recent case, jointly investigated by Romania and France, concerning pregnant women self-recognized as Roma, coming from a village in the South of Romania who were constrained to accept giving their babies for adoption in France. Starting with June 2013, the French police started to investigate the case following an anonymous denounce related to a birth registered in a hospital in Marseille. The medical staff was surprised to see a young Romanian woman who had just given birth crying in the presence of a couple anxious to take the new-born and decided to notify the po-

lice. Following the joint investigation, four Romanians were arrested for trafficking in new-born. The case is detailed in a press release dating from<sup>65</sup> April 2015:

*"Marseille: Four Romanians sentenced to prison for trafficking in babies"*

The prosecutor requested significant sentences of seven years for the four Roma accused to have organized a network of trafficking in babies, sold to infertile couples of nomads. He further requested sentences of two years of imprisonment for the two couples of buyers. The Roma were accused of trafficking in human beings.

The sellers received sentences between 18 months and 5 years in prison, with interdiction to enter the French territory and the buyers received sentences of two years with suspension. The prosecutor denounced the "human misery", "the suffering of actors involved"; "the greed" of some of them; the "grey criminal world at the limit of mafia" and the "dehumanisation" in a case file briefly described as the "babyfactory" managed by a family based clan, in which the couple forced other women to sell their babies.

**"Other babies were sold", announced the prosecutor regarding the case with the following events: four pregnancies, two concluded transactions, two failed, one as the mother strongly opposed and the second as the police arrested the clan, following a tip.**

The clan is composed of four Romanians, one coordinating the criminal activities and three concubines of his sisters, aged from 25-42 who came to "work" in France. In fact they were searching through garbage bins and one was begging in Corse. They used to live in improvised camps and fed with whatever they found in the garbage bins of nearby supermarkets and could wire up to 30 Euro per week to their families. All denied the deeds of which they were accused, though the phone taps and other evidence pointed out the opposite. Initially the men supported the story of donating the children but finally admitted to have negotiated the price, before the actual birth, to 8000 Euro and a Mercedes minivan in a case and to 8000 Euro and an old BMW in another.

*"Concerning three of your sisters, pre-*

*gnant, whose pregnancies led to planning or selling, this requires explanations",* highlighted the president of the court. *"It is a coincidence",* he was answered.

**"We didn't do anything wrong, we saved a child from his misery. His mother told us they have 6 more children at home and cannot feed them",** declared one of the traffickers. *"The network was well-organized. As soon as an agreement on the price was made, the pregnant women were brought from Romania to France to deliver the babies",* explained the instruction judge.

The two DCOC officers interviewed have described the above case as one of the first of this kind in Romania and have mentioned the continuous cooperation between the judiciary authorities from the two countries. "It is a new situation for Romania and we hope it does not turn into a phenomenon, as it happens in Bulgaria, where pregnant Roma women are transported to other countries such as Greece and are forced to accept giving their new-born into adoption (DCOC officer). The phenomenon of illegal adoptions in Romania bears the characteristics of those presented by the Bulgarian authorities, which are: the concerned women are of Roma origin, come from the same village/town or community and are kindred to the traffickers. In addition, the interviewed specialists consider that these trafficking in persons cases for illegal adoptions are difficult to be identified, researched, repressed as long as the legislation in destination countries on adoption is permissive. *"It is easy for a so called father to declare the new-born as his own child. The adoption is even quicker like this..."* (DCOC officer).

#### i) Bank frauds

Old and new: trafficking in persons to use the victims' identity to help organized crime networks obtain bank loans or tax exemption as a result of establishing false businesses only recently caught the attention of authorities, not due to its emersion but as a result of the improvements in research, identification, investigation and sentencing abilities of law enforcement agencies. The above conclusion comes as a



result of 36 interviews with victims exploited for this purpose (VoT 8-43), experts in the field, jurisprudence analysis and press releases from the police. A case in trial in the western part of Romania involved 6 nationals, organized as an OCN, who recruited persons for work in Italy, but exploited for forced begging, bank fraud and thefts. The press<sup>66</sup> release made by the investigators in 2012 indicates that: “in the period between 2005-2011, an OCN recruited directly or through intermediaries Romanians under the false proposition of unqualified work in Italy, in constructions, distribution of promotional items, caretaking for the elderly, etc. the victims were transported to Italy in minivans and cars and were accommodated in hard conditions, especially in the attics, cellars or garages of the traffickers’ residences and were made to beg for their exclusive profit.”

At the destination, victims’ identity documents were retained under various pretexts and they were taken to areas such as supermarkets, churches, amusement parks where they were supposed to beg while performing pantomime. This happened every day and all earnings would go to the traffickers. The victims were threatened and beaten in case they opposed or asked their documents back. They were also told that if they failed to comply their families in Romania would be hurt. In addition they were coerced to shoplift while forged residence and work contracts were concluded on their account. These documents were later used by the OCN to get bank loans, credit cards, to purchase online various products, especially electronics, sold soon after without paying any instalment.

The press release further mentions: „the earnings obtained from the criminal activities were invested in building luxurious houses and in purchasing expensive cars. So far 45 persons were identified to have been exploited by the OCN”. According to the interviewed experts, trafficking in persons for bank frauds implies in most of the cases begging and theft. Cases in which the exploitation for bank fraud appears alone (only the identity data of the victims is used by the traffickers for the bank fraud purpose) could be hard to investigate as trafficking in persons cases and often are considered under the offence of deceit, this

impeding the identification of persons as victims.

All 36 interviewed victims plead as injured parties in the same trafficking in persons trial (“the Wasp Nest”), for the purpose of bank frauds are adults who, in search for a (better) job, accepted the traffickers’ propositions to find jobs in Denmark. The alleged jobs were according with their qualification and experience, the recruiters using the documents of some false companies with various sectors of activity so that “job descriptions” were consistent with the experience of the victims: constructions, landscaping, exchange offices, street hygiene, and unqualified jobs. The promised salaries represented the equivalent of 1.200-1.300 euro. Each person got the temporary residence documents, the employment documents and would sit in the room with the sole obligation of contracting loans for goods, especially mobile phones, other electronic devices, usually most expensive with the already known method of obtaining a bank loan easy with one’s identity card.

“...we were in a bar, several mates. A man came to us and asked if we wanted to go to Denmark to work as he had several offers for us. I thought it was a scam until he showed us the documents from several firms...one was working in exterior design. I had experience in the field as I had worked in Italy before. I answered I would consider this and he replied we needed to hurry to conclude the contract before winter holidays. I went home, spoke with my father and said I would try it. Somehow I expected I would get exploited but not as it actually happened. I thought it would be as in Italy, work there but receive a Romanian wage” (VoT in Denmark).

“...I worked in a tannery, legally. A cousin who had left to Denmark called me and told me he was doing fine, working, asking me to join him. Here I was paid with 700 lei/month (approx.. 170 Euro), I have two children, a lot of debts and I said to myself to go there and work for a year to pay my debts then come back. He told me to obtain a passport. So I did, with my own money, I even paid an extra emergence fee. He said we were required to have one. I didn’t know I didn’t need a passport. Then I

paid the transport, with my last salary and left! What I found there was everything but work!” (VoT in Denmark). One of the interviewed victims from the Wasp Nest case, with graduated university studies and over-average economic situation explained how the recruiter insisted that he come to Denmark, by approaching him daily for a week.

“I was working at a hotel as a receptionist. I knew him somehow (the recruiter). He came to me and told me that since I could speak English, I could go to Denmark and work. I would be well paid, starting with 1200 Euro with accommodation and nurture included. I told him it was too good to be true and it seemed he understood I said no, then he started coming to the hotel every day and pressured me! I accepted in the end” (VoT in Denmark). Later on, while in exploitation the man understood the persistence of the recruiter “there (in Denmark) I had to act as a translator when the people were taken to the banks to request loans”.

The goods purchased using victims’ identity data were valued on the black market by the OCN. In a press release<sup>67</sup> launched by the Danish police, it is estimated that over 300 persons were victimized, the offenders having used their identities to commit frauds... “We estimate that for every person in exploitation, they obtained around 180 000 Danish Crowns (24000 Euro). If 300 persons were included in this system around 54 million Danish crowns (7.2 million Euro) were generated” declared the police spokesperson. According to the Romanian police the traffickers established businesses in Denmark by using victims’ data. The bilateral police cooperation started in 2014 also with the support of INTERPOL, EUROPOL, the International Centre for Police Cooperation, the attaché for internal affairs under the Ministry of Internal Affairs and a Romanian operational support officer. The joint investigation led to the identification of 71 Romanians victims of the network. They will be transported to return home by the Danish and Romanian authorities”.

On February, 25, 2015, the Danish police carried out the “Wasp Nest” operation finalized with the arrest of 24 persons,

among them Romanians. The OCN members were accused of trafficking in persons, forgery and deceit. “The Operation was concluded in the evening, resulting in the arrest of 21 Romanians, 2 Danish and one Syrian. Following the investigation it was established that the criminal network was using the identities of trafficked persons to obtain significant amounts of money by deceiving the Danish authorities, banks, credit institutions and shops” further depicts the MIA press release.

### I) The traffickers and the criminal organizations

According to the study *Trafficking in persons for begging*<sup>68</sup>, the traffickers operating abroad generally imply individuals with criminal records, who have over time, oriented themselves towards this type of criminality, based on the significant volume of income that can be obtained, compared to the low level of risk undertaken. Interviews of both victims and experts related that most of the time, trafficking related to forced begging only represents one of the criminal actions performed by the traffickers operating abroad, such that traffickers also force victims into sexual exploitation or various street-related criminal offenses. In some cases, the traffickers were also involved in drug trafficking or car theft.

“When I arrived I understood there was no work involved, just begging and theft. There was no apartment rent for us; we were taken to the trailer park... teams of 10 persons. The coordinator would indicate the tips, where to go and what to steal: wheels, car parts, cars, telephones, goods...he would assign us to our jobs and he (the coordinator) would come with a truck and pick up the goods. The boxes of goods were sold with 20 Euro a piece” (VoT 3).

Domestic trafficking constitutes a small percentage of trafficking for forced begging. Domestic trafficking shows specific features, compared to the external trafficking. The victims are generally disabled persons, institutionalized minors or homeless children. The victims are forced into begging under the pretext of ‘protection’,

yet most of these victims were already practicing begging in order to obtain a minimum daily living. The study shows the situation of children who are exploited through begging by their own parents as a problem, which must be taken into account. The causes associated with trafficking by parents, include the lack of resources needed for decent living conditions as well as educational and cultural problems that prevent this group from being able to benefit from the social assistance that the Romanian state provides.

With respect to the characteristics of traffickers, those operating domestically generally operate individually or in small groups, by exploiting a low number of victims. Generally, no other criminal actions are envisaged, although sometimes, trafficking for forced begging is correlated with trafficking for sexual exploitation or with petty street crimes. The ratio of women to men is equal amongst domestic traffickers, with women and men being involved in both recruitment and exploitation.

In the current research, findings of interviews conducted with law enforcement officers point out that the OCN mainly active in the field of forced begging are in most of the cases Romanians with Roma ethnicity. “Such networks are set up on family criteria, have a small number of members and are active in several European countries” (DCOC officer). The “over-representation” of Roma among victims or traffickers who exploit through begging is also confirmed by other studies. These also associate the risk of victimization or of criminality to factors such as poverty, social exclusion, and discrimination, lack of formal education and ineffectiveness of social protection policies. In the analysed case (GOLF, Tandarei, Europa), the criminal networks developed around families or persons influent at community level: young, strong Roma man, feared by the community or judge in the *stabor* (Roma describing the leader of the most important group of traffickers). These networks further extended around the family member who held leadership position. In line with another ANITP research report, the recruiters deceive rather than coerce the prospective victim into situations of dependency.

According to the definition of human trafficking, reflected in international and national legislation, recruitment can take place by means such as, threat, force, coercion, abduction, fraud, deception, abuse of power or abuse of vulnerability. Usually non-violent methods are used to recruit victims.

The analysis on the organization type of the structure revealed the existence of two typologies of OCN: the pyramid structure network and the concentric network. This typology offers the image of relations established in the frame of these networks. In the pyramid structured network, the relations are clearly defined, are influenced by the authority, there are several control channels and a hierarchically superior member. In the concentric structure, the number of members is small, acting as a closed group, surrounded by a network of “associates”, the interactions with the latter being more loose, whereas the small number of members composing the network allows maintaining the internal discipline. This type of network rarely bears a clearly defined ethnical or social identity (UNODC, 2006)<sup>69</sup>. It is acknowledged that the concentric networks are strictly motivated by the obtained profit, which allows them to move between various typed of criminal activities.

According to the type and size of the network, one task can be accomplished by several persons, being also possible that one person carries out multiple tasks<sup>70</sup>. According to the EUROPOL classification, on to the size of the structure, there are three types of criminal networks:

- Large scale network – international, hierarchical network, based on political and economic exchanges, occurring between origin, transit and destination states. Such networks use various recruitment methods and are active cross-country.
- Medium scale networks – victims are kept under the control of the OCN for exploitation but are not sold to other similar groups.
- Small scale networks - the owner of the club in the destination country needs “new” victims; through his contacts in



the prostitution environment, he “makes an order”, the contact persons “deliver” the victims (recruit and transport them to the destination where usually they are handed over directly to the owner).

In Romania, most of the OCNs are small scale groups, thus the same persons can be involved in the recruitment and transportation of victims but can also be their exploiters or controllers. The DCOC (GIRP) notes the existence of Romanian OCN with a hierarchical basis but also family based networks. Below are described the nature and characteristics of the criminal groups<sup>71</sup> as conducted by EUROPOL: “human trafficking networks are more likely to be organised in small groups, which operate both independently and in cooperation with other crime groups. The interaction between groups is often connected to the provision of a service that cannot be undertaken by another group.” Whatever the structure or set-up, the roles are familiar:

- Those that recruit and procure;
- Those responsible for smuggling and transport;
- Those providing false or counterfeit identity and travel documents;
- Those seeking to corrupt law enforcement officers or other civil servants;
- Those involved in the provision, management and control of safe houses;
- Pimps, owners of premises or properties where victims are exploited, e.g. bars, nightclubs, brothels, factories, hotels, construction sites, farms;
- Gang masters;
- Those involved in the collection, delivery and distribution of the profits of trafficking;
- Those knowingly involved in money laundering and the management of assets and proceeds of crime;
- Complicit legal officers and legal service providers.

Traffickers involved in the recruitment phase are often of the same nationality or ethnic origin as the victims. However, the tendency for homogeneous groups to engage or work together with other nationality crime groups in order to realise their goals is increasing. All groups show some similarities: the ability to adapt easily to new environments, conditions and markets and to respond quickly to counter trafficking initiatives. Some trafficking groups are family or clans based with strong codes of conduct and allegiances and provide significant challenges for law enforcement to penetrate, e.g. Albanian speaking organised crime groups and ethnic Roma crime groups. Nigerian trafficking groups rely heavily upon contracts with their victims that have been reinforced by a voodoo or Juju ritual. The ritual process is both a controlling element for the traffickers, pimps and madams and one which acts as a significant obstacle in dealing with victims who have been subjected to this process. Recruitment and employment agencies feature more regularly in the reported modus operandi of trafficking groups and range from the placement of a ‘too good to be true’ employment offer with an agency or the agency being set up and run by the trafficking network. According to EUROPOL<sup>72</sup>, the most prominent criminal groups were Chinese, Nigerian and Bulgarian and Romanian (Roma) criminal groups - for exploitation in petty crime, and adults for the commission of benefit fraud.

Within the Schengen Travel Area, where routine and systematic border control no longer exists, it is almost impossible to identify a trafficked person, child or otherwise, in transit. Due to the ease with which minors can be moved across the EU, they are often sent from one country to another to exploit weaknesses in the systems or laws of other countries. This is also relevant when the child comes to the notice of competent authorities. The child will be immediately relocated and used in the new country or city to continue the revenue-making exercise and to reduce the risk to the traffickers.<sup>73</sup>

An example of a large scale network is the Corduneanu clan. As it is described in the indictment document, the network has numerous links and extensions both with

local and regional criminal groups and abroad (starting with Moldova but also Italy, Spain, Germany, Austria, Ireland). It acts as a cohesive network, well structured, hermetic, with a dynamic approach towards committing crimes involving significant profits. Though initially it was established as a family network, it later became a mafia-like group in which the elements of command are Corduneanu members and which evolved from the display of direct violence to more subtle actions, such as intimidation, also fostered by the international “fame”. In Romania, the array of criminal acts include: blackmail, deceit on the real estate market; bank frauds; trafficking in persons; sequestration; money laundering. Starting with 2000, they became active in the EU and non-EU space, by developing a network of “thieves”, involved in carrying out various offences such as: thefts, robbery, bank frauds, carding.

The persons trained as thieves were recruited in two manners: 1) children of 10-12 were taken abroad and “trained” into this lifestyle, as the law enforcement was known to beat up thieves and let them go without registering them. These children would later be transferred to other countries; 2) persons who caught debts to the network and were obliged to steal in different locations to erase the debt. The persons in charge with supervising the thieves abroad were careful not to attract unwanted attention and thus accommodated the “thieves” in remote areas, in small groups. They even changed location often.

*Tira* was the person in charge with distracting attention when a thief would pickpocket a *Centaur* (n.e. theft victim). Most of the times, *Centauri* were elderly tourists. Usually *tira* were kids, in process of training who would be initiated into theft by being someone’s *tira*. They were paid very little, to motivate them to steal for themselves. The thieves were organized in such a way that whenever supervisors identified profitable locations (touristic areas, fairs), the tip was quickly transmitted to all active thieves. Thus, victims were instructed to use different styles to steal: getting close to the victim and making her trip over to steal her wallet; torn style - fast, more brutal theft and running

away; intervention style – victims were approached and asked questions; the thief would steal their wallet and run. As code names there were *Centauri* particularly for persons who seemed rich and *Centaur fair* to name large assemblies of persons.

In case one member got into conflict, the groups would be capable of gathering numerous allies and defend him. The thief network supervisors used several means of coercion, especially of children:

- their passports and identity papers were taken away to prevent them from escaping;
- whenever caught by the police, a lawyer was hired to ensure they were set free;
- their access to food was denied if it was considered they didn’t steal enough;
- by constant humiliation and sometimes heads of the network would speak with the boys on the phone to instil them fear.

In terms of mobility, the networks of thieves were scattered across the EU according to the destination country characteristics and could move around in case festivals or events were held in a certain area.

The degree of submission of the victims towards the OCN was significant, as the OCN “owned” property rights on the victims – the injured parties were obliged to pay protection fees/ransom to the network to regain their freedom. Even after paying such fees in some cases, the clan members continued to force the persons steal for them, under abuse and threats to them and their families. Injured parties were held in state of slavery and so would their families be. The prosecutor further concluded that both adult and minor victims were held in exploitation, in a state of slavery, for the exclusive gain of the OCN.

The trafficked persons were organized in teams of 3 to 10, generically entitled “squads” which acted in the UK, Spain, Switzerland, France, Denmark, Sweden, Norway, Germany, and Italy. The squads were supervised by a chief, appointed by the heads of the OCN, chief who would

also collect and wire the money to Romania via „Western Union” or third parties. The chiefs also provided the “protection” of victims in case they were caught by the police.

Every morning, victims were woken up and sent to certain areas where they were forced to commit crimes such as pick pocketing. In the evenings they returned to the place of accommodation and were handing in the earnings to the supervisors. They would be carefully monitored so that they couldn’t hide money. Given the high organization of this OCN and its violence, the identification of witnesses and injured parties willing to collaborate with authorities was almost impossible.

The interviewed DCOC officers support the fact that in the case of trafficking in persons for forced criminality purposes, most of the OCN are family type networks, of medium and large scale. Large scale networks are more frequently used in the case of trafficking in persons for the purpose of distribution and selling of drugs and in bank frauds by using the victim’s identity. According to the EUROPOL, regarding the nature and characteristics of the criminal groups involved<sup>74</sup>, the traffickers involved in the recruitment phase are often of the same nationality or ethnic origin as the victims with the tendency for homogeneous groups to engage or work together with other nationality crime groups in order to realise their goals.

As it results from the interviews carried out with specialists and victims, all recruiters involved are Romanian, most of them coming from the same communities as the victims. Different patterns arise in large scale exploitation cases such as the Wasp Nest and cases which imply constraint to commit crimes and drug trafficking, in such situations the network members belonging to various nationalities and ethnicities. In the Wasp Nest case although all victims come from Romania, the traffickers are Romanians, Danish and Syrian. For international drug trafficking in connexion with trafficking in persons, in the sole researched case, both traffickers and victims have different nationalities and ethnicities.

All groups show some similarities: the ability to adapt easily to new environ-

ments, conditions and markets and to respond quickly to counter trafficking initiatives. Following the analysis of trafficking for constraint to commit crimes purposes, EUROPOL affirms that some trafficking groups are family or clan based with strong codes of conduct and allegiances and provides significant challenges for law enforcement to penetrate, e.g. Albanian speaking organised crime groups and ethnic Roma crime groups. In support to this lie the contributions of our respondents “Roma children are emotionally attached to the members of the network, they are valued and feel important, they have no reason to seek help or provide information on the network” (NATIP representative); “I was young, I felt I belonged to a group and that it was very important what I did for the adults. No matter how much they threatened us, after we succeeded a “catch”, they’d buy us everything we wanted, food and clothes. I was young and stupid. I was happy to get brand clothes” (VoT 7).

#### 4) ANTI-TRAFFICKING POLICIES AND SPECIFIC PROJECTS/ TRAININGS WITH A SPECIFIC FOCUS ON FORCED CRIMINAL ACTIVITIES AND ROMA MINORS

The Romanian Law on Data Protection prohibits data collection linked to ethnicity with some exceptions, including reasons of important public interest. On the basis of this the NATIP does not include ethnicity as an indicator in its database. How the SIMEV works is considered a good practice in the harmonized data collection. To login into SIMEV and be allowed to input data one must be considered a specific user and is assigned a user name and a password. Each user has a predefined level of access to the data, thus being very few people cleared to use SIMEV. The system uses an encrypted channel and automatically records all performed operations (insertion, modification). The insertion of data can be done nominally (victims appear with their names) and anonymously (only the demographic data is recorded). All identified victims are asked whether they



consent to be registered in the database and on the nominal/anonymous possibility of data input. This is done through a standardized form. The type of data input in SIMEV contains demographic details (gender, age, area of residence, education, family composition) and also data related to the trafficking episode, inclusion in the assistance programme, and participation in the criminal proceedings. In terms of outputs, the following have been mentioned by the NATIP representatives: knowledge of the phenomenon dimensions and evolution; Better referral process and monitoring of the assistance provision; improved identification; baseline data for prevention programmes; in evaluating the institution's activity.

The Icarus project<sup>75</sup> study has as starting hypothesis the insufficient child protective elements of the actual system for the emigration and immigration of children, this leading to unwanted consequences. The research focuses on *the Declaration on one own account* (the notary declaration) as a means to prevent international trafficking in minors and improve the identification of trafficked children. It also aims to describe the role notary offices play in combating and preventing trafficking in persons. The *Declaration on one's own account* was introduced in 2005 with the purpose of securing child mobility and preventing trafficking in persons, by introducing a series of obligations for the child's parents or adults accompanying them in their voyage abroad, with the purpose of protecting child and parents' rights and prevent international trafficking in persons.

Among the objectives targeted by Icarus, there can be mentioned: to improve victim assistance and identification among practitioners who come into contact with victims or potential victims of THB, with a view to improving discharged and mandated duties; to ensure that tools and guides to assist identification of victims in the UK which are incorporated into the UK Government National Referral Mechanism (NRM) are enhanced, shared and aligned with local and national protection frameworks in Romania; and to develop an online resource to enable professionals in Romania and the UK to access support and training. Both Romanian and UK

partners will provide on-going assistance to child care agencies who identify and provide support to children through case management, ensuring the child's best interests; provide tools to frontline workers in Romania and the UK to identify children at-risk of trafficking and Romanian un accompanied minors who are begging in major cities of the UK; and design and deliver an online knowledge hub where practitioners can connect, access and share resources, training and support.

As provided above, the need for training both at policy and at grassroots level comes as a parallel, on-going process accompanying all measures taken to prevent and combat trafficking in persons and adequately provide protection and assistance to its victims. As trafficking in persons and particularly the less known forms of it have a volatile nature, with an accelerated dynamics, the training of all actors involved comes as an obligation to be able to design and implement measures which are capable to tackle the phenomenon. Any training initiative should be based on real, observed shortcomings and assessed needs. It should start by aiming a proper victim detection and pursuance of the perpetrators.

Detecting potential victims of trafficking is important because these persons are in danger and it is the duty of professionals to protect them. It is important to detect a victim as early as possible to ensure that the person is protected from those who exploit and harm them. Illicit activities are criminal activities and those performing them are offenders. If not recognized as being forced to commit these activities, the victims may be arrested and condemned. It is therefore essential to detect and recognize those who are forced by others to perform these illicit activities. They should be treated as victims of trafficking, not as criminals. Once identified as a possible victim, the person will be referred to the competent authority which is in a position to grant protection and assistance for the victim's immediate and short term's needs. Detecting possible victims may help to free other men and women, or children, found in the same or similar exploitation as most often, traffickers have multiple victims. First level identification may help to build a case, and lead to the arrest and

prosecution of those who have abused the victim. Furthermore, this may lead to providing compensation and legal redress to the victim.

For instance, AGIRE project<sup>76</sup>, implemented between 2008-2010 by Austria, Greece, Italy and Romania acted for stronger private-public partnerships in the field of identification and support of child victims and at risk of trafficking in Europe. The project was funded in the framework of the 2007 ISEC Programme with "Save the Children" Romania as project leader. AGIRE dealt with under-age victims and aimed: to strengthen the prevention of and fight against child trafficking; and to develop cooperation between public and private actors, and to create best practices to identify and support child victims or at risk for trafficking and serious labour exploitation in the EU, especially in the partner countries.

Based on the rights of children, a method was developed to identify indicators needed to recognize child victims of trafficking and serious labour exploitation. The method also allowed specific subjective profiles to be developed in order to monitor the criminal phenomenon and, best practices to be defined. These best practices were to be adopted for the first assessment for victim identification purposes and the first intake in assistance of victims; they also entailed an active involvement of other local actors. Training manuals based on shared methods have been created. Similarly, common standard operational procedures have been adapted to the various partner countries with a view to developing best practices for identification, support, assistance and protection of child victims.

Secondly there stands, Euro TrafGuID project: Development of common guidelines and procedures for the identification of victims of trafficking funded by the European Commission in the framework of the 2010 ISEC Programme on prevention and the fight against crime and coordinated by France in cooperation with Spain, the Netherlands, Greece, Romania and Bulgaria. The project aimed to strengthen and harmonise methods and procedures for the identification of the victims of trafficking

as well as spreading best practices. The relevant activities included interviews with institutional and non-institutional actors conducted in 2012. Their focus was on the recognition/detection of trafficked victims by operators who are not specialised in combating this criminal phenomenon when they first come into contact with them. This led to the development of shared guidelines and procedures for first-level identification.

These were intended for institutional and non-institutional actors who first came into contact with the potential victims (law enforcement officials, health care institution staff, voluntary organisations or other bodies that interact with these victims for institutional reasons). The results were summarised in the following 4 guides mainstreamed in September 2013 during the final conference held in Brussels: - Best practices for the trafficking victim identification; - Guidelines and indicators to identify victims of trafficking for sexual exploitation purposes"; - Guidelines and indicators to identify victims of trafficking for labour exploitation purposes"; - Guidelines and indicators to identify victims of trafficking for exploitation purposes in illicit activities". These manuals provide a valuable list of best practices that help to define "indicators" and are calibrated for meeting the needs of non-specialised operators who first come into contact with victims.

Thirdly, the CONFRONT - Countering new forms of Roma children trafficking: Participatory approach aims to strengthen counter-trafficking efforts in Europe project addresses two deficiencies in the current counter-trafficking response: the lack of in-depth knowledge in the new forms of trafficking affecting children and lack of active involvement of the Roma community – a group at high risk. It focuses on three new forms of trafficking: child begging, labour exploitation for pick-pocketing and sexual exploitation of boys. Activities take place in seven EU Member States, four of them typical countries of origin for victims of trafficking (Bulgaria, Romania, Hungary, Slovakia) and three traditionally destination points for Roma victims (Austria, Italy, Greece).

Concerning the developed practices and operational procedures to adequately address the phenomenon of child trafficking there can be mentioned the AGIRE<sup>77</sup> manual and other tools (profiles of child victims or those at risk; indicators for the identification of child victims and those at risk; improved methodologies for the identification and support of children at risk; standard operating procedures, to define cooperative modes between private-public actors on the identification and support of child victims and those at risk). Based on the need to enhance victim identification and support due to inefficient and ineffective cooperation between private and public actors both in terms of capacity to identify child victims or potential victims, and their ability to guarantee minimum levels of assistance and protection in line with child rights standards, AGIRE designed a training manual.

The manual contains 4 modules and can be used in a two-day training workshop involving approximately 20 participants. While all efforts have been made to reflect local conditions in this Training Manual, it is recommended to adapt training to the specific context and circumstances to be found in the country where training is conducted. To conduct the training, the manual is meant to be used in conjunction with the Trainer's Guide which follows the Training Manual structure and provides a concise, self-contained curriculum of four modules providing a suggested sequence of training. In summary, the objectives of the training are the following: to familiarize practitioners with child trafficking and its different types of exploitation; to increase knowledge among practitioners about the trafficking stages of recruitment and exploitation; to promote a multidisciplinary approach and cooperative models between private and public stakeholders; to present proactive modes of identification and assistance based on human rights based standards and transnational cooperation.

## 5) DIFFICULTIES IN IDENTIFYING TRAFFICKING FOR FORCED CRIMINALITY PURPOSES AND RECOMMENDATIONS

The difficulties in identifying trafficking for forced criminality purposes are also related with the weak border control and the easy procedures to obtain notary documents and false identity papers necessary for crossing borders with a child. The EUROPOPOL considerations are the following: within the Schengen Travel Area, where routine and systematic border control no longer exists, it is almost impossible to identify a trafficked person, child or otherwise, in transit. Due to the ease with which minors can be moved across the EU, they are often sent from one country to another to exploit weaknesses in the systems or laws of other countries. This is also relevant when the child comes to the notice of competent authorities. The child will be immediately relocated and used in the new country or city to continue the revenue-making exercise and to reduce the risk to the traffickers.<sup>78</sup>

Trafficking in persons for forced criminality purposes is difficultly detected due to the fact that most of the victims are children, cannot be held legally liable for their deeds and traffickers take advantage of this. The response of law enforcement agencies is reactive, being initiated after victims have been in exploitation for long periods of time, which allows for the evolution of criminality in some communities given the specific mobility of trafficking networks. "They (the traffickers) waited for us in the car. In case the police came, I had to run or hide. If they found me I was underage anyway, so they'd let me go" (VoT 5); "... in a month period they moved us to three houses. I ended up in a house where there were already 30 Roma they were organizing for theft" (VoT in Denmark).

The perception of victims as offenders is another barrier, maybe the most important in detecting and investigating cases of trafficking for illegal activities and in assisting the victims. As a consequence of this erroneous perception, victims get pun-

ished for crimes which they committed by threat, blackmail, deceit, emotional abuse and many remain undetected among those who have committed crimes because of a lack of proper victim identification and screening. Illicit activities are criminal activities and those performing them are offenders. If not recognized as being forced to commit these activities, the persons may be arrested and condemned. It is therefore essential to detect and recognize those who are forced by others to perform these illicit activities. They should be treated as victims of trafficking, not as criminals.<sup>79</sup>

The European Union directive requires all Member States to give prosecutors and courts discretion not to prosecute in cases where someone has committed an offence as a result of being a victim of trafficking. Each case is different and prosecutors need to decide whether or not it is in the public interest to prosecute. Nonetheless some victims end up being prosecuted, convicted and imprisoned for crimes they have committed whilst they have been trafficked.

To address widely recognized shortcomings and to ensure that victims receive adequate identification and support whereas traffickers are punished, this research, together with all cited reports presents recommendations for all actors involved, from the policy to the grassroots level.

## RECOMMENDATIONS:

### **The training, information and capacity building of child protection services, border guards, local police, judges and prosecutors on the rights of child victims of trafficking to access social services and protection**

Training should be delivered by highly qualified professionals who share experience and success stories at eye-level, and raise awareness of child rights and protection more generally. It is also important to raise awareness of the fact that each case is different and to equip those who are involved in handling the cases with knowledge on how to value the diversity while safeguarding the rights of the child in each case the understanding of child trafficking is

still shaped by many stereotypes. There is a focus on the cross-border element of child trafficking as it appears to be considered mainly an international offence involving non-national victims. Nationals and residents are not considered as victims or at risk to the same extent. Child trafficking is strongly perceived to be organised by criminal networks, although there is evidence of cases organised by individuals or smaller groups, including the child's parents or family members. It appears to be a reluctance of recognising children exploited in begging and criminal activities as victims.

### **Ensuring that law enforcement and the judiciary know a child's consent to the exploitation is irrelevant**

In addition to general awareness training on human trafficking, training law enforcement and judicial officials about the principles of non-punishment and non-prosecution of victims is key to increasing the likelihood that individuals will be properly identified by the authorities, and thereby secure access to justice and protection.

### **Ensuring a wide understanding of the concept of a 'victim'**

In practice the term 'victim' is strongly understood as qualifying the person concerned as destitute, weak and impacted by severe harm and traumatised. Children who appear to be self-confident, happy, well-fed and safe from physical violence and abuse may not be considered victims of trafficking.

Children must not be prosecuted for the criminal activities they have been forced to commit. In cases where children do end up in the criminal justice system, legal professionals need to understand the legal tools and opportunities available to protect child victims.

**Empowering front line workers, apart from the police to identify victims:** trafficking victims actively avoid law enforcement. Thus they can be identified by civil personnel: social workers, religious institutions, community leaders given their ability to build trust within local communities.

**Recognizing the victims among offenders-** unidentified trafficking victims are often punished for crimes committed while under coercion. Some states have developed laws or policies to allow courts to not hold liable trafficking victims for unlawful acts they have committed during their trafficking experience.

**Establishing regulations or standard operating procedures with NGOs to identify victims:** Persons, who are identified as potential victims, are granted the reflection and recovery period in which they receive protection and assistance services. At the end of the recovery and reflection period, they are to decide if they want to cooperate with judicial authorities in the trafficking in persons investigation. Ideally assistance and protection services do not cease once the potential victim decides not to cooperate with law enforcement but continue to ensure their re-integration.

**Employing multidisciplinary approach:** encouraging collaboration between multiple stakeholders in victim identification: law enforcement, grassroots professionals/NGOs, municipalities, etc.

In addition, according to the RACE in Europe report, the following recommendations have been passed to all concerned actors with national and trans-national mandate:

- *The full transposition of the EU Directive (36/2011), with particular focus on Art. 8 (non-incrimination dispositions) into the national action plans for combating trafficking in persons;*
- *Constant information sharing between professionals who encounter victims of exploitation for forced criminality purposes and begging in their work;*
- *Introducing indicators and criteria related to this type of exploitation in the existing data collection/analysis systems;*
- *Improving the information exchange by joining EUROPOL and EUROJUST and the constant use of their available technical tools, such as for instance joint investigation teams;*

- *Ensuring adequate protection and guaranteeing the rights of trafficked victims; ensuring safe and adequate accommodation for minor victims to prevent re-trafficking and running away from centres;*
- *Adopting a legal guardianship system for child victims of trafficking in persons in line with the provisions of Directive 36/2011;*
- *Appointing an independent national rapporteur to monitor and report activities leading to the enforcement of the anti-trafficking legislation and policies.*

Moreover, on analysing the transposition of the UN Convention on the Rights of the Child, particularly of Art.35, the UNICEF Guide on the protection of the rights of the child victim of trafficking in the Eastern Europe, stresses out the importance of the following principles:

- *All measures taken by states must ensure a multi-sector, multi-agency approach of the phenomenon;*
- *All measures must fully comply with the rights provided in the Convention, thus defining the superior interest of the child;*
- *The involvement of the child victim in committing crimes must not shadow the child status and the status of a crime victim or his right to access adequate support and protection;*
- *All child victims of trafficking are entitled to equal treatment and protection, irrespective of their nationality, gender, language, ethnic origin or social environment;*
- *Any child has the right to express their opinion on any measure or decision taken on his behalf, such as the decision of returning him to his origin country;*
- *The child victim must be informed in a language they can understand on their situation and subsequent legal provisions, on the possibilities of family reunification, their rights and juridical consequences;*

- *Any decision concerning the child must be taken diligently, particularly protection measures;*

- *Any measure taken must correspond to the specific features and needs of the child.*



## Acronyms

<b>EU</b> = European Union
<b>GRETA</b> = Group of Experts on Action against Trafficking in Human Beings, supervisory committee European Trafficking Convention
<b>CoE</b> = Council of Europe
<b>UN</b> = United Nations
<b>UNICEF</b> = United Nations' Children's Fund
<b>IOM</b> = The International Organization for Migration
<b>ILO</b> = the International Labour Organization
<b>EUROPOL</b> = the European Police Office
<b>INTERPOL</b> = the International Police Organization
<b>EUROJUST</b> = the European Union's Judicial Cooperation Unit
<b>SELEC</b> = Southeast European Law Enforcement Center
<b>SIRENE</b> = Schengen Informatic System
<b>TRM</b> = Trans-national Identification Mechanism
<b>NIRM</b> = the National Identification and Referral Mechanism of Victims of Trafficking in Persons
<b>SIMEV</b> = the Integrated System to Monitor and Evaluate Victims of Trafficking in Persons
<b>NATIP</b> = the National Agency against trafficking in Persons
<b>BCOC</b> = the Office for Combating Organized Crime
<b>SCOC</b> = Services for Combating Organized Crime
<b>DCOC</b> = the Directorate for Combating Organized Crime
<b>DIOCT</b> = the Directorate for Investigating Organized Crime and Terrorism
<b>GIRP</b> = the General Inspectorate of Romanian Police
<b>GIBP</b> = the General Border Police Inspectorate
<b>GII</b> = the General Inspectorate for Immigration
<b>ICPC</b> = the International Centre for Police Cooperation
<b>UNNPR</b> = the National Union of Public Notaries in Romania
<b>NAPRCA</b> = the National Authority for the Protection of the Rights of the Child and Adoption
<b>GDSACP</b> = the General Directorate for Social Assistance and Child Protection
<b>TiP</b> = Trafficking in persons
<b>OCN</b> = Organized Crime Network
<b>NGO</b> = Nongovernmental Organization
<b>ADPARE</b> = the Association for Developing Alternative Practices for Reintegration and Education
<b>VoT</b> = victim of trafficking
<b>PTSD</b> = Posttraumatic Stress Disorder
<b>HORECA</b> = Hotel, Restaurant, Cafeteria industry

## III.

### REFERRAL PRACTICES AND PROCEDURES FOR PERSONS TRAFFICKED IN FORCED CRIMINAL ACTIVITIES

**Identification of methods and agency specific and multi-agency practices adopted or to be adapted in the identification, referral, assistance and social inclusion of victims of trafficking in forced criminal activities, with particular reference to Roma minors.**

*Proposal of grid on existing practices relating to referral/ identification, first aid and protection and prevention activities, training and research on trafficking (with particular reference to the exploitation in forced criminal activities)*

This TEMVI Project activity consists in an identification and analytical collection of methods and agency specific and multi-agency practices adopted or to be adapted in the identification, referral, assistance and social inclusion of victims of trafficking in forced criminal activities, with particular reference to Roma minors.

This activity is carried out in view of setting up a prototype for agency-specific and multi-agency practices in the specific field of the referral for potential, presumed, identified victims of trafficking and severe exploitation in forced illegal activities and in view of designing and implementing consequent training for anti-trafficking professionals in the social, law enforcement and judicial areas.

The present chart has been designed in order to offer a Referral System and an Operational model of practices addressing trafficked persons, with a focus on forced criminal activities

- for facilitating the collection of data and information about the single Practices to be identified by the project partners,
- as well as for serving as a basis for the Prototype to be designed for tackling trafficking in forced criminal activities of Roma minors.

The chart contains a multi-agency and human rights based Operational model, which consists of following elements: the Actors involved, the Activities, the Aims, the Operating tools/procedures and the Methodologies of intervention.

Local anti-trafficking system for the identification, referral and assistance to trafficked persons	Actors involved	Activities	Aims	Operating tools / procedures	Methodologies of interventions crossing all areas based on the multi-agency and human rights approaches
<p><b>Identification / Referral Area aimed at entering into contact with potential and presumed victims of trafficking and severe exploitation in forced criminal activities and developing knowledge on the phenomenon</b></p>	<p>1. Social workers such as those in direct contact with potential and presumed victims (street operational units; representatives of the international protection system; representatives of the anti-trafficking system; health workers).</p> <p>2. Law enforcement and Judiciary representatives.</p> <p>3. Other agencies and stakeholders that during their professional activities may enter into contact with potential and presumed victims (religious authorities; labour inspector business owners, etc).</p> <p>4. Citizens</p> <p>5. Providers of services for low-incomers or people living in poverty (soup kitchen, dormitory, counselling centres).</p> <p>6. Legal Guardians</p> <p>7. Lawyers</p> <p>8 Social workers and other professionals involved in assisting minors</p>	<p>1. Production of materials to foster the knowledge and raise the awareness on the phenomena of trafficking and severe exploitation also in forced criminal activities as well as on the profiles of potential victims and on the indicators of a situation of severe exploitation (minors, pregnant women, persons with disabilities, elders)</p> <p>2. Implementation of initiatives to enter into contact and inform persons involved in begging, prostitution, and in forced criminal activities</p> <p>3. Dissemination of information materials on the phenomena of trafficking and severe exploitation addressed to persons involved in begging, prostitution and forced criminal activities</p> <p>4. Development of multi-agency (social workers and police) proactive initiatives directed at entering into contact with individuals at risk of severe exploitation paying attention to the potential difficulties in construction a relation of trust with the potential victim. It could be difficult if the social workers are seen with police officers. This situation have to be monitored in order to avoid amalgam and distrust.</p> <p>5. Receiving information and providing counselling to people in a situation of need and responding to assistance requests, and subsequent referral to the system in place for assisting victims of trafficking and severe exploitation and to other systems such as for asylum claim and refugees and for unaccompanied minors</p> <p>6. Setting-up of a local referral system on trafficking for the purpose of exploitation in forced criminal activities and/ or its integration in the already existing mechanisms</p>	<p>1. Setting up of an Observatory for the monitoring of the phenomenon of forced criminal activities and the existing links with other severe forms of exploitation such as begging, prostitution, labour exploitation, as well as for the monitoring of the target groups involved</p> <p>2. Strengthen the multi-agency work with particular respect to the identification and referral of potential and presumed victims involved in forced criminal activities and related phenomena such as begging and prostitution</p> <p>3. Setting up of a local network point aimed at the referral of presumed victims of trafficking and severe exploitation.</p> <p>4. Setting up of consequent procedures and tools</p>	<p>1 Free anti-trafficking help lines aimed at the collection of assistance requests;</p> <p>2 Network point for the referral of potential and presumed victims;</p> <p>3 Materials in different languages for the dissemination of information;</p> <p>4 Meetings, seminars, and workshops addressed to the local authorities aiming at raising awareness and providing information on severe forms of exploitation also in forced criminal activities</p> <p>5. Street operational units composed of multi-professional staff (social workers, linguistic mediators) to enter into contact with the population at risk;</p> <p>6. Law enforcement units active in the investigation, prevention and patrol area.</p>	<p>1. Multi-agency network and activities based on a human rights oriented and multidimensional approach among public institutions and private service providers;</p> <p>2 Cultural-linguistic mediation.</p>

Local anti-trafficking system for the identification, referral and assistance to trafficked persons	Actors involved	Activities	Aims	Operating tools / procedures	Methodologies of interventions crossing all areas based on the multi-agency and human rights approaches
<p><b>Area of Identification / First aid to victims of trafficking or severe exploitation in forced criminal activities</b></p>	<p>1 Social workers;</p> <p>2 Humanitarian workers;</p> <p>3 Law enforcement officers;</p> <p>4 Professionals of the criminal justice system;</p> <p>6. Legal Guardians</p> <p>5. Lawyers</p> <p>6 Professionals of the juvenile criminal justice system;</p> <p>7 Professionals of the Centres for the Identification and Expulsion of foreigners;</p> <p>8 Professionals of Centres for asylum seekers;</p> <p>9 Professionals of the unaccompanied foreign minors protection system;</p> <p>10 Professionals of criminal detention centres.</p>	<p>1 Information and counselling in multiple languages on the systems of protection and programmes of assistance to presumed victims of trafficking and severe exploitation</p> <p>2 First investigative results by law enforcement agencies in relation to the identification of individuals involved and the characteristics of the exploitation referred by witnesses; sharing of such results with operators of the system of intervention for the assistance to victims of trafficking taking into account that often in case of criminal forced activities the person involved is also an author of crime</p> <p>3 Multiagency oriented and shared collection of the victim's story and of the conditions of exploitation also with the guardian and the lawyer for a complete legal assistance</p> <p>4. Health examination of psychophysical conditions of presumed victims of trafficking aimed at identifying the most adequate arrangement within the system of protection and the contingent need of legal or health assistance</p> <p>5. Conversation with legal professionals and need to obtain the presumed victim's informed consent prior to the establishment of any form of cooperation with law enforcement agencies or the signature of the report concerning the case</p> <p>6. Assessment by a multi-disciplinary team of the migratory project of the presumed victims of trafficking and severe exploitation in order to develop a personalized educational project</p> <p>7 Assessment by a multi-disciplinary team in order to evaluate the regularization of the status of the victims taking into account the different instruments offered by national law and the rights of the persons involved if child, the his/her best interest</p>	<p>1 Secure the safety of potential victims and activate the "reflection period".</p> <p>3. Provide health and legal assistance to potential victims of trafficking and severe exploitation in forced criminal activities.</p> <p>4. Guarantee that the procedures put in place address, in case of underage individuals, the obligations stemming from international legally binding instruments such as the Convention on the Rights of the Child (Presumption of being under age in the case of doubt, assessment according to criteria adopted at the national level of the subject's presumed age, the application of the principle of the best interest of the child, assessment of family reunification, appointment of legal guardians)</p> <p>5 Building a relationship of trust</p> <p>6 Facilitate adherence to a project to prevent drop out</p>	<p>1 Establishment of a multi-agency team composed, on the one hand, by law enforcement officers trained in the prevention and the area patrol and specialized in the fight against criminal activities connected to the phenomenon of trafficking and, on the other hand, multi-disciplinary social workers specialized on trafficking and assistance to victims (cultural-linguistic mediators, psychologists, legal experts, education experts, ect);</p> <p>2. Exit / Escape points;</p> <p>3. Protected shelter facilities;</p> <p>4 Development of a child-friendly setting</p> <p>4. Personalized assistance programmes.</p>	<p>1. Multi-agency networking activities and procedures;</p> <p>2. Cultural-linguistic mediation;</p> <p>3. Cooperation with the professionals and the institutions operating at the local level.</p>



Local anti-trafficking system for the identification, referral and assistance to trafficked persons	Actors involved	Activities	Aims	Operating tools / procedures	Methodologies of interventions crossing all areas based on the multi-agency and human rights approaches
<b>Area devoted to the protection of the rights of victims of trafficking and severe forms exploitation in forced criminal activities</b>	<p>1 Law enforcement agencies;</p> <p>2 Judicial authorities;</p> <p>3 Local authorities and civil society organisations;</p> <p>4 Professionals of the un-accompanied minors system of protection;</p> <p>5 Professionals of the system of protection for asylum seekers and refugees;</p> <p>6 Professionals of anti-trafficking systems of countries of origin and destination of victims;</p> <p>7. Embassies and Consulates;</p> <p>8 Cultural and linguistic mediators.</p>	<p>1 Activate first aid facilities and secure the presumed victim of trafficking personal safety, in cooperation with the law enforcement agencies and at the presence of the lawyers or other professionals granting legal assistance</p> <p>2 Regularization of status;</p> <p>3 Education and vocational training;</p> <p>4 Job placement;</p> <p>4 Housing independence;</p> <p>5 Conversion of residence permit;</p> <p>6 Legal assistance for crimes committed during the exploitation;</p> <p>7 Support during the process of reporting / pressing charges;</p> <p>8 Support during the application to join proceedings as a civil party (compensation)</p> <p>9 Reunification with victims' relatives</p> <p>10 Voluntary or assisted return</p>	<p>1. Definition of personalized programmes for the assistance and social integration or for the voluntary and assisted return;</p> <p>2. Empowerment of the person involved, competences assessment, redefinition of the migratory project</p>	<p>1 Personalized educational programmes;</p> <p>2 Social support networks in the field of: health, regularization, legal assistance, psychological assistance, education and vocational training</p> <p>3 Job placement;</p> <p>4 Housing independence</p> <p>5 Voluntary or assisted return</p>	<p>1. Competences assessment;</p> <p>2. Multi-agency work in network;</p> <p>3. Cultural-linguistic mediation.</p>

Local anti-trafficking system for the identification, referral and assistance to trafficked persons	Actors involved	Activities	Aims	Operating tools / procedures	Methodologies of interventions crossing all areas based on the multi-agency and human rights approaches
<b>Research, Training and Prevention Area</b>	<p>1 Social workers;</p> <p>2 Humanitarian workers;</p> <p>3 Health services workers</p> <p>4 Law enforcement officers;</p> <p>5 Professionals of the criminal justice system</p> <p>6 Professionals of the juvenile criminal justice system</p> <p>7 Professionals of the Centres for the Identification and Expulsion of foreigners</p> <p>8 Professionals of Centres for asylum seekers</p> <p>9 Professionals of the unaccompanied minors protection system</p> <p>10 Professionals of criminal detention centres</p> <p>11 Trade unions, employers' organisations and the media</p> <p>12 Embassies and consulates</p>	<p>1. Production of materials to foster the knowledge and raise the awareness on the phenomena of trafficking and severe exploitation in forced criminal activities as well as on the profiles of potential victims and on the indicators of a situation of severe exploitation (minors, pregnant women, persons with disabilities, elders)</p> <p>2 Raising awareness activities addressed to the population at risk.</p> <p>3. Dissemination of information materials on the phenomena of trafficking and severe exploitation addressed to the general public and media operators.</p> <p>4. Development of multi-agency (social workers and police) proactive initiatives directed at entering into contact with individuals at risk of severe exploitation considering the potential difficulties in the construction a relation of trust with the potential victim. It could be difficult if the social workers are seen with police officers. This situation have to be monitored in order to avoid amalgam and distrust.</p> <p>5. Multi-agency training (law enforcement, police, border police, judicial authorities, labour inspection authorities, social and health workers, social workers of the international system of protection and of the unaccompanied foreign minors system) on conflict resolution.</p> <p>6. Awareness raising activities at school.</p> <p>7. Establishment of system of local units for the monitoring, study and analysis of the modifications of the phenomenon and for the validation of operating practices, possibly integrated in the existing local anti-trafficking referral systems</p>	<p>1. Setting up of an Observatory for the monitoring of the social phenomena of severe exploitation and trafficking for the purpose of exploitation in forced criminal activities, as well as of the target groups and fields involved</p> <p>2. Strengthen the multi-agency work with particular respect to the referral and intervention with potential and presumed victims involved in forced criminal activities.</p> <p>3. Setting up of a local network point aimed at the referral of potential victims of trafficking and severe exploitation.</p>	<p>11. Free anti-trafficking help lines aimed at the collection of assistance requests.</p> <p>2. Network point for the referral of potential victims.</p> <p>3. Materials in multiple languages for the dissemination of information.</p> <p>4. Meetings, seminars, and events addressed to the general public and to local authorities aiming at raising awareness and providing information on severe forms of exploitation in forced criminal activities</p> <p>5. Street operational units composed of multi-professional staff (social workers, linguistic mediators) to enter into contact with the population at risk.</p> <p>6. Law enforcement units active in the investigation, prevention and area patrol.</p>	<p>1. Multi-agency networking activities and procedures, with a human rights oriented and multidimensional approach among public institutions and private service providers;</p> <p>2. Cultural-linguistic mediation.</p>

#### IV.

### THE LOCAL REFERRAL MECHANISM AND THE CRITICAL AREAS OF CONCERN REGARDING FORCED CRIMINAL ACTIVITIES<sup>80</sup>

#### PROTOTYPE OF MULTI-AGENCY PRACTICES FOR THE DEVELOPMENT OF A REFERRAL SYSTEM FOR CHILD VICTIMS OF TRAFFICKING AND EXPLOITATION IN FORCED CRIMINAL ACTIVITIES

The regional research on the phenomenon of human trafficking with the purpose of exploitation in forced criminal activities, on the profiles of involved individuals, on the intervention systems in place, as well as the subsequent analysis jointly developed during the meeting in Nice by the project partners, showed a number of framework and operational critical issues that may be summarized as follows:

1. *None of the national/regional contexts involved in the project have developed and prepared practices, within their referral systems, such as to structure a set of interventions aimed at bringing out, identify, give protection and assistance to victims of trafficking for the purpose of exploitation in forced criminal activities, whether adults or minors.*

2. *The victims of this area of exploitation are difficult to detect because the process of their identification and in particular of minors is generally a result of their first qualification as offenders and/or foreign unaccompanied minors. This means that at present, because of this double invisibility, child victims of trafficking and serious exploitation in forced criminal activities are assisted and treated in the circuits related to juvenile justice be it criminal or civil, or within the systems of protection provided for foreign unaccompanied minors, rather than in anti-trafficking protection systems.*

3. *On the one hand the mainly cultural and family nature which seems to characterize most cases of exploitation of children in forced criminal activities implies a non-recognition of the exploitation on the part of the victims themselves, while the non-punishment of certain criminal conducts arising from minority promotes the constant reproduction of criminal profiles. On the other hand it attaches to those who practice such conduct high self-esteem and social value and potential roles of power within their own context.*

4. *The specificity of this phenomenon requires an effort of knowledge and the involvement of other actors and operations in comparison with what has been experienced and implemented in the anti-trafficking systems for the emergence, identification, protection and assistance of the victims of sexual and labour exploitation.*

5. *The limited knowledge of the phenomenon affects the effectiveness and timeliness of the measures taken by operators in the detection and management of child victims of exploitation in forced criminal activities; it compromises the quality of services and their outcomes, and it hampers the development of standard operating procedures in an approach based on human rights and on the respect of the best interests of the victims at the very stage of their emergence.*

#### THE EMERGENCE PHASE AND THE CONSTRUCTION OF THE PARTNERSHIP

The national pieces of research on the phenomenon of forced criminal activities have shown that cases of exploitation of children might emerge from many different contexts and thanks to different operations and intervention systems:

- *As a result of police activities aimed at territorial control and crime prevention;*
- *As a result of investigations for criminal offences such as the facilitation of illegal immigration, the exploitation of children in prostitution and in begging;*

- *Within the context of juvenile criminal justice;*
- *Within the referral system for unaccompanied minors;*
- *From the asylum seekers system with particular reference to the unaccompanied minors asylum seekers;*
- *Inside the interventions of social or education services and health care services;*
- *Inside the low-threshold interventions targeted at non-resident and homeless populations;*
- *From the contact activities with populations at risk of exploitation in begging and in prostitution in their mingling with forced criminal activities.*

The main public and private actors identified to structure in the territories a referral mechanism for the protection of victims of trafficking and serious exploitation in forced criminal activities, with particular reference to minors are:

- *The professionals from the social services, the law enforcement agencies and the judicial authorities which are part of the National Anti-Trafficking Referral Mechanisms;*
- *Police officers with the task of prevention and control of the territory (local police, patrols etc.);*
- *The Border Police;*
- *Professionals from the Juvenile and Ordinary Judicial Systems;*
- *Professionals from the local social services for child protection;*
- *Legal Guardians;*
- *Professionals from penal institutions for minors;*
- *Lawyers and legal consultants;*
- *Caregivers;*
- *Social workers in direct contact with the people at risk of exploitation in the fields bordering with forced criminal activities, such as male and female street prostitution or begging;*

- *The professionals from the systems assisting applicants for international protection (asylum seekers and refugees);*
- *The professionals from the systems assisting unaccompanied minors;*
- *The professionals of the reception centers for migrants;*
- *The professionals of social services for people in poverty;*
- *Religious figures*

#### EMERGENCE OF VICTIMS AND CONSTRUCTION OF THE REFERRAL SYSTEM

The plurality of contexts of possible emergence of child victims of trafficking and serious exploitation in forced criminal activities obliges the current national anti-trafficking referral systems (up to now focused almost exclusively on combating the phenomenon in the context of sexual exploitation), to a development and an expansion of the partnership. On the basis of a holistic knowledge and analysis of the phenomenon, new and innovative forms of collaboration, practices and operating procedures should be defined in order to go beyond what has been put in place up to now for the emergence, identification, protection and first aid for victims of trafficking coming from other areas of exploitation.

Therefore, in order to ensure that the existing referral systems to help victims of trafficking and serious exploitation become a real and effective operational strategy to combat the phenomenon of trafficking and serious exploitation of persons in forced criminal activities with particular reference to children, it is necessary that current anti-trafficking networks built and structured on a co-operation between public actors and NGOs mainly focused on sexual exploitation, undertake following actions:

1) Promote preparatory system actions for the promotion and protection of the rights of child victims of trafficking and exploitation in forced criminal activities, through information and awareness raising

initiatives, knowledge dissemination about the phenomenon and the available protection measures towards all those public and private actors that directly, because of their institutional mandate, or indirectly can come into contact with young offenders or young bearers of strong indicators they are potential offenders.

2) Broaden and strengthen the partnerships and collaborations on the specific phenomenon through the implementation of joint training among social workers, health care workers, police officers and from the judiciary in order to define and identify, in an approach based on human rights and on the best interests of the child, multi-agency operating procedures for the emergence, identification and first assistance aimed at identifying and protecting child victims of trafficking and serious exploitation in forced criminal activities.

These multi-agency activities such as training, awareness raising and information dissemination on the phenomenon and on the interventions (that within an already structured referral system qualify as cross-cutting or preparatory activities for the emergence, identification and first assistance), in this particular area of trafficking and severe exploitation are activities designed to foster the reporting and the emergence of presumed victims.

In addition, practices and standard operating procedures in the field of emergence, identification, and prompt first aid to child victims of trafficking and serious exploitation should diversify, depending if the detection of cases occurs concurrent with the identification of the child as offender or after this when the child is already present in the juvenile justice system or in other systems that border trafficking such as those for unaccompanied minors or for refugees and asylum seekers.

In fact, this dual emergence channel is somewhat theoretical since (with the exception of the cases in which measures of restriction of freedom are applied), the juvenile offenders presumed victims of trafficking and serious exploitation in forced criminal activities either go away immediately or remain in the facilities in which they are placed for a few days. This specificity outlines on the one hand

that the main actor in charge to favour the emergence of child victims of trafficking and serious exploitation are the police. In this regard, considering the main activities in which the minors can be used as theft, theft with dexterity or in homes, drug dealing, sale of counterfeit goods, etc., it has to be highlighted that the first contact is done primarily by frontline police officers with tasks of prevention and control of the territory and not investigative tasks.<sup>81</sup> On the other hand the above specificity outlines the need to open the identification phase immediately from the time of the children's emergence. Therefore, in order to avoid that there is a period between the emergence of the child as offender and the start of the identification phase it is necessary that the mode of emergence is seen as an indicator of his/her status of victim or potential victim of trafficking and serious exploitation; it is necessary that the mode of emergence constitutes a fundamental element of the identification process or at least its startup. In this case the mode of emergence of these minors, that is being offenders, constitutes the first and principal although not the only indicator of trafficking and severe exploitation.

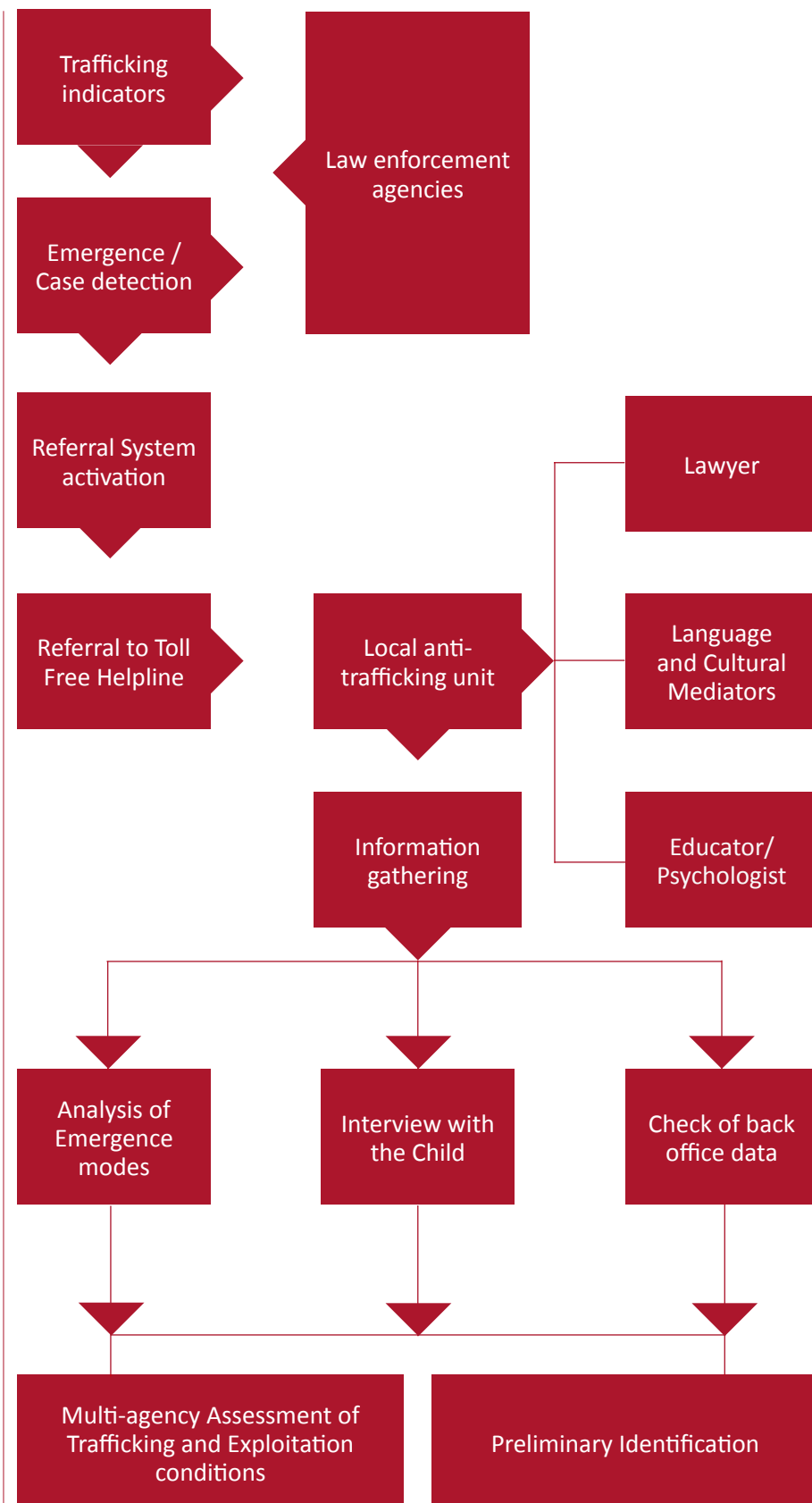
#### TRAFFICKING INDICATORS AND THE EMERGENCE PROCESS

The mode of emergence, i.e. being the author of the crime and the condition of being a minor, are the main but not sufficient indicators of trafficking. To these other indicators must be added such as the type of crime, the non-presence or residence of the parents in the area of detection, little or no schooling, the ability to manage the relationship with the police, etc. As with any type of victim of trafficking or severe forms of exploitation, their first identification and emergence within at-risk populations such as migrants seeking international protection, illegal workers, beggars or prostitutes, is a highly complex process that requires the help and collaboration of more professionals and the integration of multiple points of view in a multi-disciplinary dimension. In this specific field of exploitation, because of the peculiar mode of emergence, of the



centrality of the legal and criminal aspects arising from the minors' conduct, because of the age of the victims, of the social and cultural conditions most of these children come from, because of all these factors the identification of victims of trafficking and severe exploitation within the juvenile offenders is one of the most complex of all identification processes. In fact, being the offender and being under age are the primary indicators, the others might be called "secondary" indicators. This means the primary indicators should be enough to activate emergency or urgent referrals by a team of investigators, legal and social professionals, who through the detection of "secondary" indicators (not for their importance but since they are detected at a second stage), should be able to make an assessment of the presumed exploitative conditions so that the minor offender might be contextually also be qualified as a presumed victim of trafficking or serious exploitation in forced criminal activities.

This is the peculiarity of the emergence process of this particular type of victims compared to those from other areas of exploitation: as they are identified as offenders, the emergence of child victims of trafficking and serious exploitation in forced criminal activities does not activate the referral system to provide support and protection before the formal identification and before the victim's possible cooperation with the authorities as it normally happens for the victims of trafficking for sexual or labour exploitation. On the contrary, the activation of the referral (both investigative and social action) can only be functional to an identification which is in the first place a formal identification, simultaneous and never subsequent to the preliminary one. Also, the first assistance and protection are not characterized anymore as a recovery and reflection period functional and preliminary to formal identification; on the contrary they will always be protective measures subsequent to formal identification, and from the very beginning they will be characterized as the provision of psycho-social services by the agencies in charge of children.



**IDENTIFICATION**

The failure to recognize child victims of trafficking and serious exploitation in forced criminal economies within the population of young offenders, in addition to disabling the main channel of possible emergence of these vulnerable children, also prevents the application or causes the incorrect application of important and effective measures usually taken to protect the rights of presumed victims of trafficking for sexual or labour exploitation. For example, the preliminary analysis and assessment about the conditions of exploitation and the consequent referral of the presumed victim to a safe temporary accommodation, to be effective and respectful of individual rights should be done by the social agencies before the presumed victim undergoes treatment by the police, while the activities of formal identification (i.e. those aimed at determining whether the individual is a trafficked person) should be carried out after the person has been given information and basic needs have been addressed following the start of a period of recovery and reflection.

The very same period of recovery and reflection remains a dead letter and unapplied for the presumed trafficked person/child into forced criminal activities, notwithstanding it has proven to be an effective and fundamental measure for the protection of the rights of persons presumed to have been trafficked into sexual and labour exploitation, so that they can recover and be provided all useful and needed information and assistance before starting a possible cooperation with the Judicial Authorities against traffickers and exploiters.

Thence, in order to avoid that young offenders presumed victims of trafficking and severe exploitation in forced criminal activities are inserted

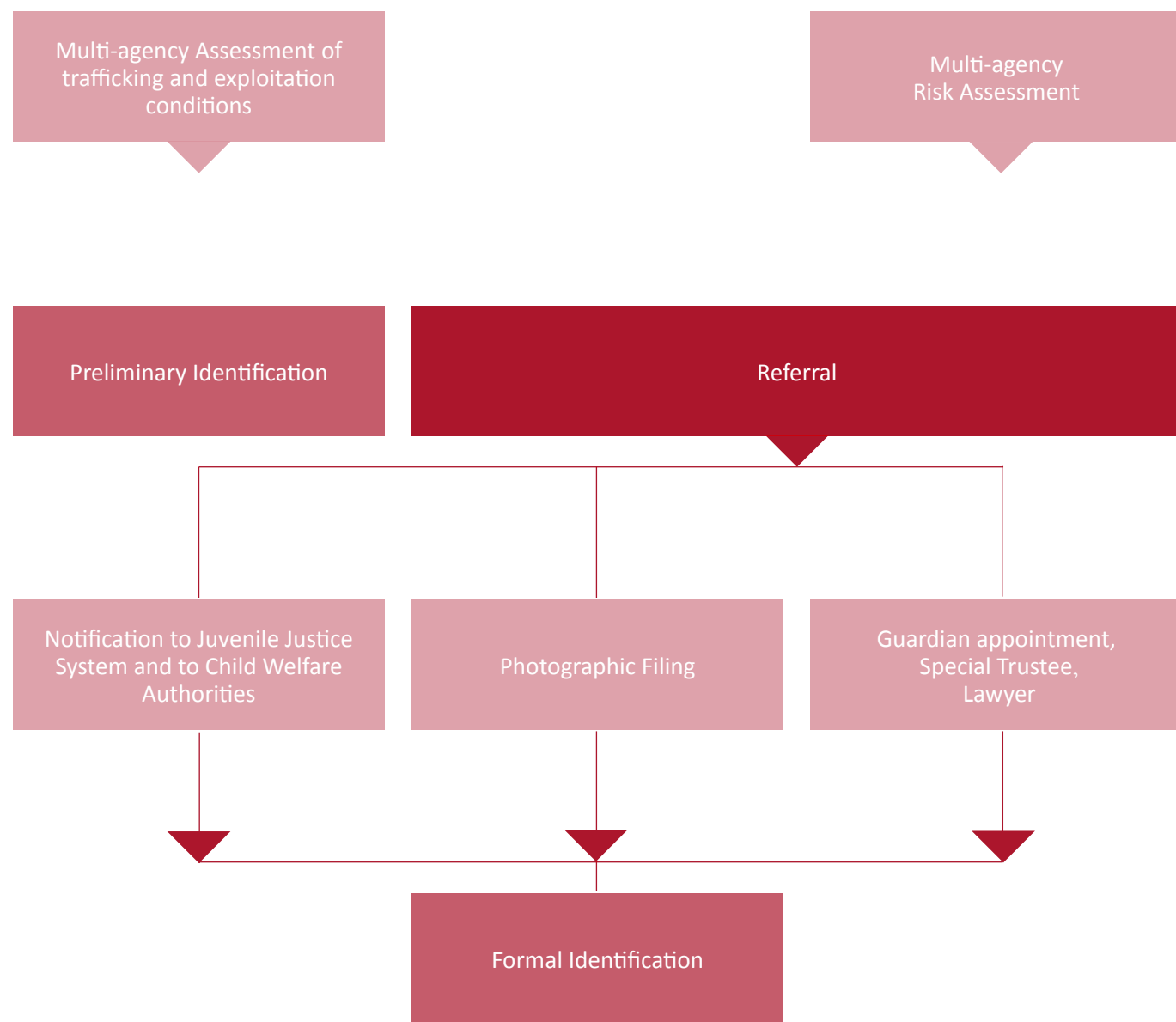
in assistance circuits which are not those dedicated to the protection of trafficked persons, it is necessary that the preliminary identification of the conditions of trafficking and severe exploitation that usually qualifies the person, in this case children, as a presumed victim of trafficking and severe exploitation, immediately starts the formal identification stage. Formal identification consists of a set of activities such as reporting to the child welfare authorities, photographic filing where the child is undocumented (which is both an investigation of identity and a check of the back office data reported by the investigators in the preliminary phase of identification), and the appointment of a pool of legal professionals for the protection of the child such as the Guardian for the care of the child which represents the child in all civil acts and administers his/her assets, the Special Trustee for the care of the interests of the child in judicial offices, a trusted lawyer for criminal proceedings that can see the child involved as a witness and the plaintiff and/or as the offender.

From the point of view of the process, the mode of emergence, or being the presumed offender and being under age are the primary indicators allowing to start the process of identification of any conditions of trafficking and severe exploitation. In fact these primary indicators incorporate a first preliminary identification that allows the activation of the referral system for measuring the "secondary level" indicators which are fundamental for a multi-agency assessment of the exploitative conditions that on the one hand closes the process of preliminary identification and on the other hand starts the formal identification with the task of assigning the victim status to the child.

The peculiarity of this particular type of vulnerability compared with the

victims of other areas of exploitation is that the assessment of the conditions of trafficking and severe exploitation of children in forced criminal activities cannot be separated from:

- Providing for a multi-agency work between police and social action as the interview with the child must be performed by personnel with educational and psychological skills and at the presence of a lawyer and not by police officers;
- Evaluating as a condition of risk for the safety and welfare of the child related to the possible involvement of the family and/or group he/she belongs to in his/her exploitation.



**FIRST ASSISTANCE**

First Assistance is the outcome, the final stage of this first process aimed at structuring local referral systems to help child victims of trafficking and severe exploitation in forced criminal activities. The experience gained over the years by local referral systems has structured this phase on the main objectives of supporting and protecting the assisted person by providing safe accommodation and by promoting access to services for basic needs, in particular those relating to both physical and psychological health. Through the activities aimed at taking care of the trafficked person, at providing information on his/her legal status and on the services and provisions available for trafficked persons, this is the context in which a first trust relationship is built in order to help the person to make informed decisions with respect to his/her future life.

This is a recovery and reflection phase for the assisted person, to decide whether or not to cooperate with the Judicial Authorities and whether or not to continue using the Referral System to access a long term assistance programme aimed at social inclusion in the destination country or to opt for voluntary assisted return in the country of origin, or to decide to return into the exploitative network or in the context where exploitation started/took place.

It is therefore a first assistance phase addressing presumed trafficked persons, preliminary to long term assistance. Usually it is successfully used if the person accessed it after a crisis with the exploitative network (e.g. because of violence against them, deceit, broken promises etc.), or if the exploitative network didn't satisfy at least at a basic level primary social, cultural and emotional needs and if the person didn't have a perception of an autonomous life prospect.

Well, all this doesn't apply to juvenile offenders who are victims of trafficking and severe exploitation in forced criminal activities.

First of all for these vulnerable individuals the first assistance stage is from the

very beginning a definitive/formalized assistance stage, differently from the persons trafficked into other exploitation areas (for whom first assistance is a preliminary phase to a possible subsequent long term assistance phase). In fact, in forced criminal activities, there is no preliminary identification but from the very beginning a formal identification takes place, since notification to the Child Welfare Authorities and to the Juvenile Justice System implies that formalized referral starts as the law enforcement agencies pass the custody of the child to the representatives of the anti-trafficking referral system through the access to a safe facility specifically identified through multi-agency collaboration between social action and investigative action developed in assessing the conditions of risk in relation to the safety of the child.

Secondly, the fact that the minors don't perceive themselves as victims, the occurrence of a crisis or traumatic situation caused not by the conditions of exploitation or enslavement but by the intervention of the police, a feeling of omnipotence and social recognition by the adults of their group/community resulting from the skills and abilities acquired in the exercise of high-risk activities, are all elements that on the one hand frustrate the ability to implement all activities and procedures for diagnostic and prognostic evaluation consolidated by those who work with child victims of sexual abuse and which are aimed at understanding:

- *The overall picture of the traumatic situation, in its individual and social aspects, and as far as relationships are concerned;*
- *The amount of physical damage and / or psychological harm caused by the traumatic situation on the minor;*
- *The degree of responsibility on the part of the adults involved and the ability to change / increase the level of parental responsibility;*
- *The resilience of the family unit and the adequacy of the network of relatives;*

· *The alternative resources available in the event of negative prognostic factors related to the adults close to the underage person;*

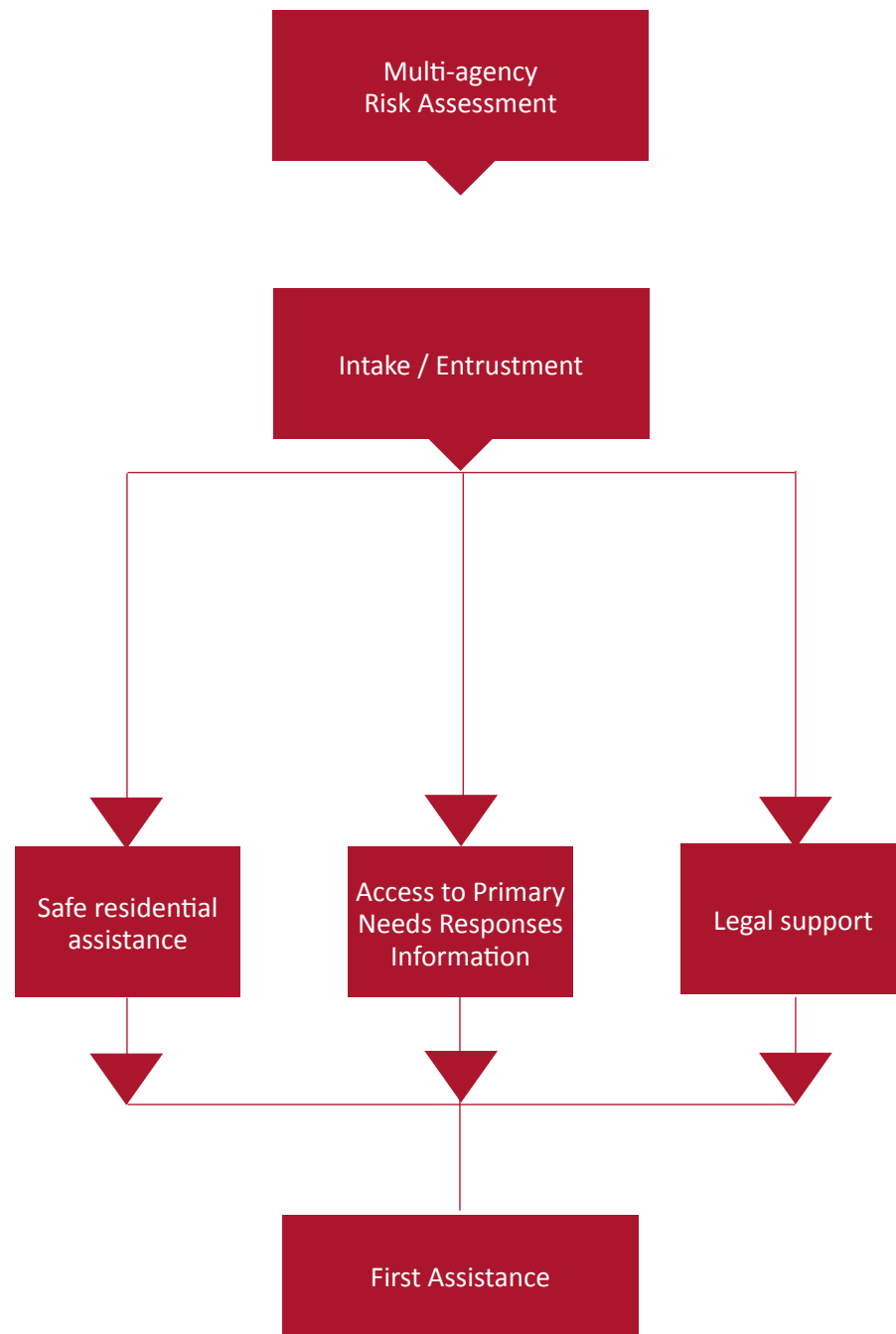
and which are aimed at understanding, in the case the parents are present and are not involved in the exploitation:

- *Their willingness to support their son/daughter, even in cases in which he/she has played an active role in the affair;*
- *The ability to recognize that their son/daughter is a victim;*
- *The tendency to attribute to the child the responsibility for the incident and to blame him/her;*
- *The ability to question themselves, to recognize and take responsibility over the incident;*

on the other hand they lead the children to immediately abandon the shelters / protected structures.

For this reason, in order to prevent the desertion of the shelters by the children, it is essential to think of a model of residential assistance that overcomes the current practices and tries to place the person and the culture he/she belongs to at the centre, rather than his/her victim status because of which it is thought he/she needs primarily security and protection. This means offering a non-judgmental setting with an operational approach able to involve the child and to entice the child to return even after his/her possible desertion of the shelter. This especially means deconstructing the roles of the stereotyped play which sees on the one hand the social workers responsible for the assistance considering these children as if they were passengers in transit and their communities the waiting room of a bus station or railway station, and on the hand the children perceiving the assistance in shelters as a hiccup of a game that increases their value and their self-confidence and the charm of a life lived on the edge and in danger, but for this very reason adventurous and fascinating.



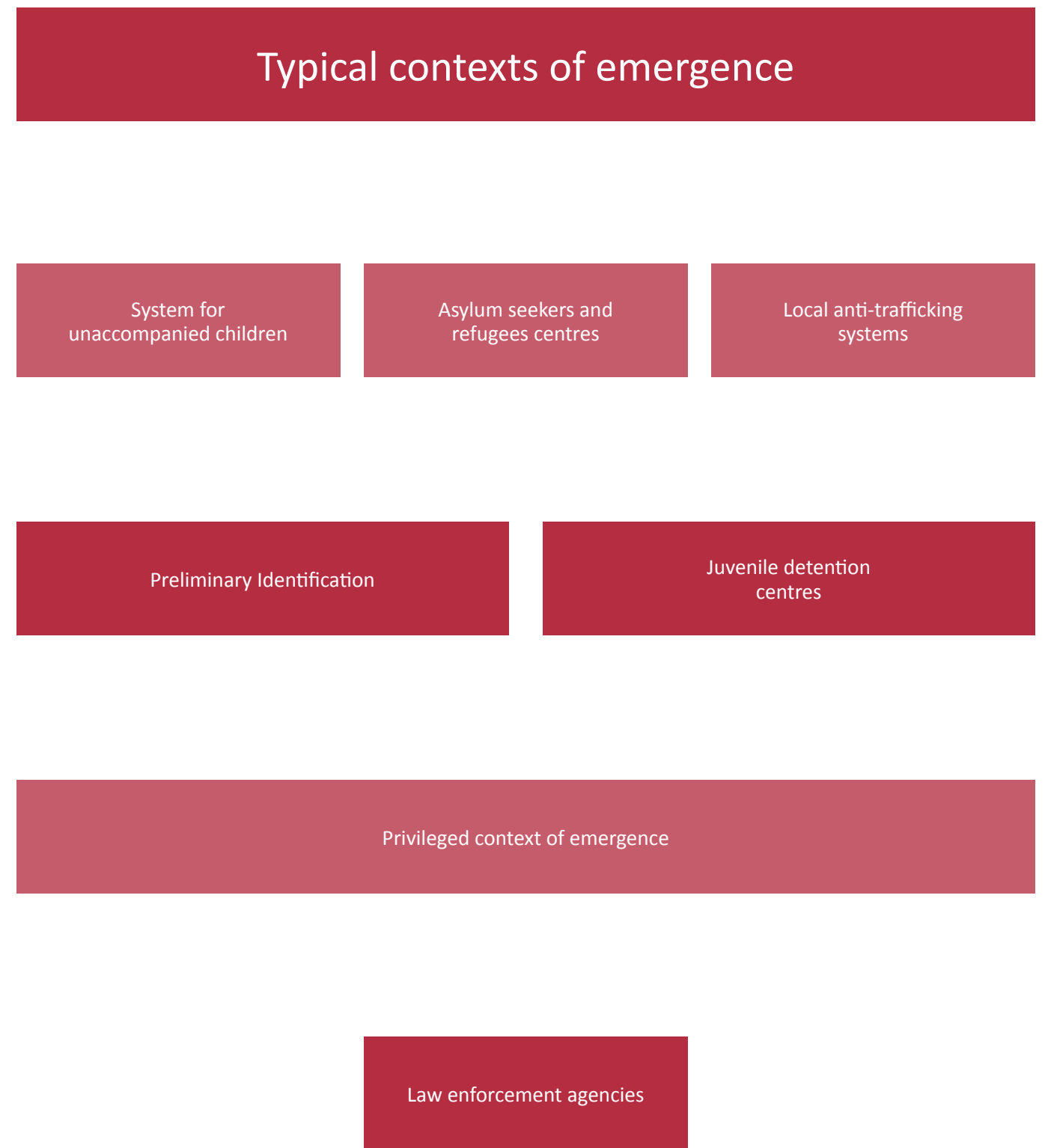


**V.**  
**IDEALTYPE PROTOTYPE OF MULTI-AGENCY PRACTICES FOR A REFERRAL SYSTEM FOR CHILDREN TRAFFICKED AND EXPLOITED INTO FORCED CRIMINAL ACTIVITIES<sup>82</sup>**

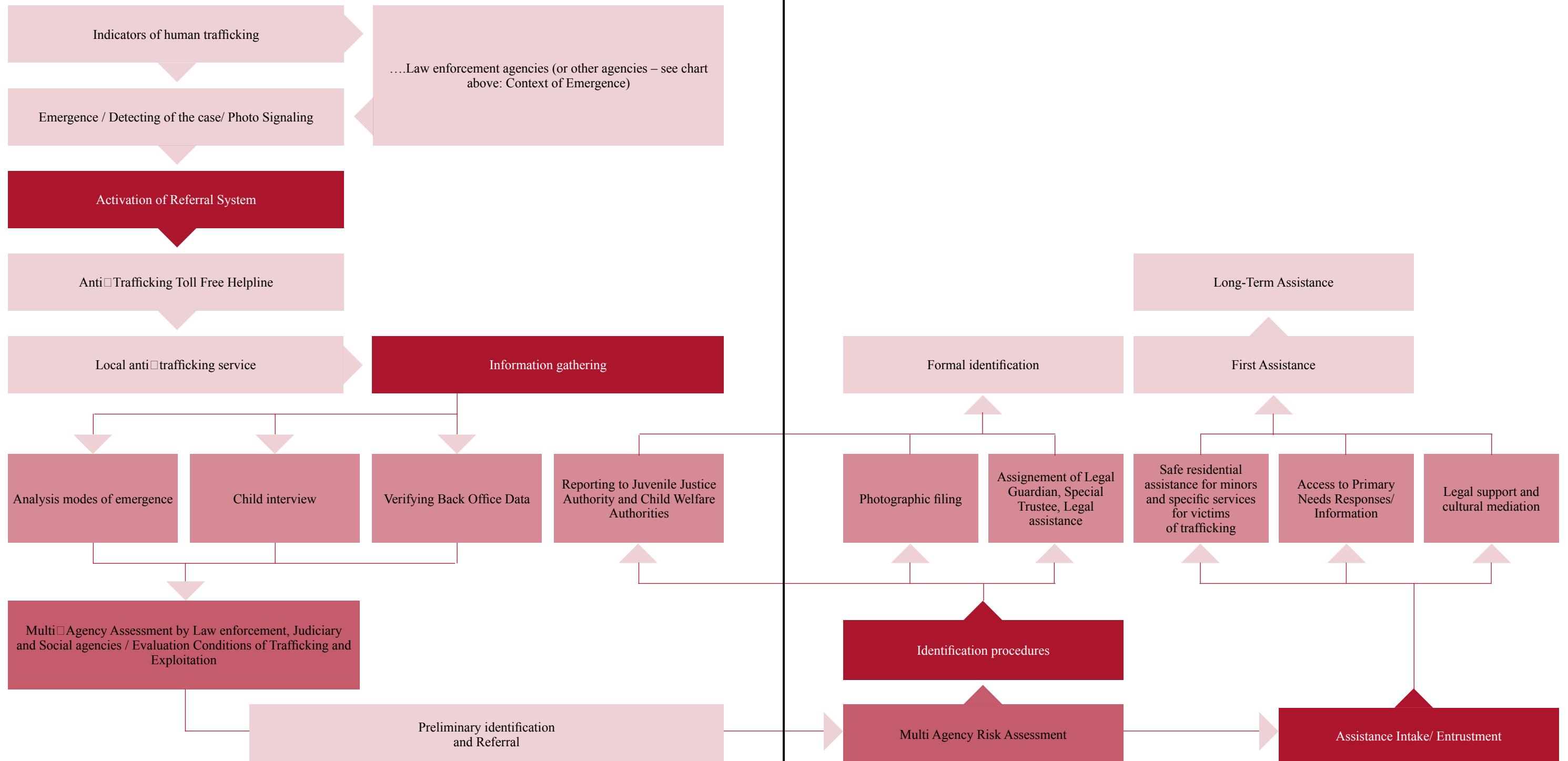
*(basis for the development of Country-specific Prototypes and of Standard Operating Procedures for Emergence, Identification, First Assistance and Long Term Assistance and Social Inclusion)<sup>83</sup>*

**The Idealtpe Prototype is composed of 5 charts/sections, as follows:**

1. General chart on the Contexts of Emergence of persons (children in particular) trafficked and exploited into forced criminal activities
2. General chart of the Idealtpe Prototype sequence of actions/procedures aimed at providing referral to children (Roma particularly) trafficked and exploited into forced criminal activities and at combating the crime
3. Chart on the area devoted to the Emergence and to the Construction of a Referral System to protect child victims of trafficking and other severe forms of exploitation in forced criminal activities
4. Chart on the area devoted to the identification of child victims of trafficking and other severe forms of exploitation in forced criminal activities
5. Chart on the area devoted to the first assistance to child victims of trafficking and other severe forms of exploitation in forced criminal activities.



**GENERAL CHART OF THE IDEALTYPE PROTOTYPE SEQUENCE OF ACTIONS/PROCEDURES AIMED AT PROVIDING REFERRAL TO CHILDREN (ROMA PARTICULARLY) TRAFFICKED AND EXPLOITED INTO FORCED CRIMINAL ACTIVITIES AND AT COMBATING THE CRIME**





**THE IDEALTYPE PROTOTYPE: AREA DEVOTED TO THE EMERGENCE AND TO THE CONSTRUCTION OF A REFERRAL SYSTEM TO PROTECT CHILD VICTIMS OF TRAFFICKING AND OTHER SEVERE FORMS OF EXPLOITATION IN FORCED CRIMINAL ACTIVITIES**

**ACTIVITIES**

- Multi-agency training on knowledge and analysis of the phenomenon, the development between the public and private sectors of partnerships and practices of emergence, identification, first assistance of child victims of trafficking and serious exploitation in forced criminal economies
- Production of materials for knowledge and awareness-raising on trafficking for forced criminals economies / profiles of potential victims and indicators
- Dissemination of information materials among populations at risk / presumed trafficked persons
- Proactive multi-agency actions, by social professionals and law enforcement agencies, for the emergence of child offenders among the target groups at risk of exploitation in forced criminal economies
- Advice to the professionals of the systems close to the system of interventions to help victims of trafficking, which are potential contexts of emergence: system for unaccompanied children; system for asylum seekers and refugees; juvenile criminal justice circuit
- Collecting preliminary information on the conditions of trafficking and serious exploitation
- Analyzing the findings of investigations in relation to the identification of the individual and his/her possible condition of trafficking and serious exploitation

**ACTORS**

- Social professionals of the anti-trafficking system also connecting with the country of origin
- Social professionals of outreach and low threshold services
- Humanitarian workers
- Medical staff
- Police officers
- Professionals of the justice system
- Professionals of the juvenile justice system
- Professionals of the migrants reception centres
- Professionals of the system for unaccompanied children
- Professionals of the asylum seekers refugees centers
- Psychologists
- Psychotherapists
- Lawyers
- Child care staff (child welfare institutions, such as foster homes, state social services...)
- Legal Guardians for minors
- Embassies of the countries of origin of victims (not in case of asylum claim)
- Police officers connecting the countries of origin of victims
- Depending on the mode of emergence the victim him/herself, other trafficked persons, family or acquaintances
- International Organizations

**OBJECTIVES**

- Improve knowledge of the phenomenon and the diffusion of this knowledge
- Foster the emersion of victims among young offenders and ensure effective response interventions and coordinated
- Building within local anti-trafficking systems a network for a reporting / submission of the people involved in situations of serious exploitation linked to the forced criminal economies adjoining existing anti- trafficking systems
- Define a multi-agency operating model relating to the human rights of detecting conditions of coercion and exploitation among juvenile offenders
- Prevent the institutional re-victimization of child victims of trafficking and serious exploitation in economies criminals forced arising from a lack of recognition of their conditions
- Set up monitoring of the phenomenon and the case studies of forced criminal economies and the linkages with other areas of exploitation

**ACTIONS TO BE DETAILED INTO OPERATING PROCEDURES FOR PROPER AND TIMELY REPORTING ON CASES AND ACTIVATION OF REFERRAL TO HELP CHILD VICTIMS OF TRAFFICKING AND SERIOUS EXPLOITATION IN FORCED CRIMINAL ECONOMIES**

- Analysis of the mode of emergence
- Listening to the child's version of the facts and analyzing his/her condition
- Investigative data back office analysis
- Multi-agency assessment about the conditions of exploitation and trafficking among young offenders at the time of emergence

**CONTEXTS OF EMERGENCE**

- as a result of police activities aimed at territorial control and prevention
- as a result of investigations for crimes of various nature
- crimes such as e.g. the facilitation of illegal immigration, exploitation of minors in prostitution and begging
- within the context of juvenile criminal justice
- within the system for unaccompanied minors
- from the system of asylum seekers with particular reference to unaccompanied child asylum seekers
- within the interventions of social services and educational and health agencies
- within the outreach and low threshold interventions aimed at non-resident populations, and homelessness
- the contact activities of the populations at risk of exploitation in begging and prostitution in their mingling with forced criminal activities

**METHODOLOGIES AND OPERATIVE TOOLS**

- Approach based on compliance with the standards defined in the main human rights instruments
- Multidimensional approach oriented in terms of multi-agency working between public institutions and private social agencies
- Helpline for receiving the reporting of presumed trafficking cases and for activating the referral system
- Multidisciplinary team with legal and psychological skills and of linguistic-cultural mediation to collect preliminary information in accordance with the best interests of the child, to ensure the right to information and to be listened to, the respect for privacy and the dignity of the person, the right to protection
- Network of protected facilities ready to provide temporary shelter specifically focused on the needs and safety of the child
- Talks / interviews
- Transnational cooperation

**THE IDEALTYPE PROTOTYPE: AREA DEVOTED TO THE IDENTIFICATION OF CHILD VICTIMS OF TRAFFICKING AND OTHER SEVERE FORMS OF EXPLOITATION IN FORCED CRIMINAL ACTIVITIES**

**OBJECTIVES**

- Ensure that the identification procedures carried out for minor offenders relative to their status as victim comply with international standards in respect of the United Nations Convention on the Rights of the Child
- Ensure that there is the presumption the suspected trafficked persons is a child, in case doubts remain after an age assessment has been carried out in a non-invasive and non-harmful way and in full respect of the child protection rules and procedures.
- Adequate evaluation of the effects that could result from a possible reunion with the family

**ACTORS**

- Social professionals of the care system for minors
- Social professionals of the anti- trafficking system, also connecting with the country of origin
- Law enforcement officers
- Professionals of the justice system
- Professionals of the juvenile justice system
- (• Professionals of the system for unaccompanied children)
- (• Professionals of the centers for asylum seekers and refugees)
- Lawyers
- Psychologists, Psychotherapists, Medical staff
- Child care professionals
- Legal Guardians
- Embassies of the countries of origin of victims (not in case of asylum claim)
- Police officers connecting the countries of origin of victims
- International Organizations

**ACTIVITIES**

- Information and guidance in the native language of the child: on his/her legal status and rights; on the systems of protection and assistance programmes directed to presumed victims of trafficking and serious exploitation; giving answers to any concerns expressed and/or meeting the emergency needs
- Sharing and joint analysis of emerged social and investigative data to establish measures for the safety and welfare of the child presumed victim of trafficking and serious exploitation in forced criminal economies
- Reporting to the Child Welfare Authority (responsible for the protection of the rights and for the psycho-social care of children), the presumed conditions of trafficking and serious exploitation in forced criminal economies
- Analysis of the possible risks and guarantee of immediate security to the presumed victim of trafficking
- Determine, through both informal and official procedures, if the person is a victim of trafficking and if necessary, to establish the identity of the person trafficked to clarify the relevant information arising from identification to trafficked person recognized as such.

**METHODOLOGIES AND OPERATIVE TOOLS**

- Linguistic and cultural mediation
- Multi-agency networking
- Informed consent of the presumed victim shared with the guardian, which should accompany the whole process as case manager, and should therefore also work closely with the national child protection services, the law enforcement and the judicial authorities, with the immigration services (in the case of a foreign child) and other support services until a durable solution in the best interest of the child has been identified and implemented
- Individual-based approach to establish positive contact with the (presumed) trafficked people and gain their trust
- Implementation of all activities and sharing of the objectives with the appointed guardian, who should be constantly present to ensure the satisfaction of the basic needs of the child and the respect of his/her rights

**CONTEXTS OF IDENTIFICATION**

- Police offices
- Juvenile detention offices
- Juvenile Court
- Ordinary Court
- Anti-trafficking special procedures

**ACTIONS TO BE DETAILED INTO OPERATING PROCEDURES**

- Multi-agency assessment of the risk and identification of preventive measures for the safety and welfare of the victim
- Careful evaluation of the role of the family and the relationship of the presumed victim of serious exploitation with it as well as with others in the community he/she belongs;
- Assessment on who are the persons who may represent a danger including family members;
- Appointment of a guardian and a special trustee;
- Photographic filing;
- Reporting to the Juvenile Judicial Authority and to the local Social Services responsible for intervention on children about the suspected alleged condition of trafficking and serious exploitation of the child;
- In the event of a foreign child, the designated authorities (usually the Minister of the Interior in cooperation with the social services) in the country of destination should establish contacts with the foreign embassy in the country of destination or a competent authority / the Ministry of the Interior in country of origin.



**THE IDEALTYPE PROTOTYPE: AREA DEVOTED TO THE FIRST ASSISTANCE AND TO THE CONSTRUCTION OF A REFERRAL SYSTEM TO PROTECT CHILD VICTIMS OF TRAFFICKING AND OTHER SEVERE FORMS OF EXPLOITATION IN FORCED CRIMINAL ACTIVITIES**

**ACTIVITIES**

- Placement of the child in a safe accommodation arranged if possible for the reception of people of similar age and the same gender
- Adopting all necessary protection and safety measures for the child
- Taking charge for security management and coordination of all the services that the child may need in relation to psychological support (building a helping relationship), medical care, legal assistance, the development of recreational activities, other activities related to education, training, generational needs, the work placement and financial assistance
- Orientation of the minor about the available long-term assistance options, the legal opportunities, assisted voluntary return, etc.
- Support and coaching of the child in accessing responses to basic needs and information pointing out that the application of the principle of the child's best interests must be a primary consideration (art. 3 Convention of the Rights of the Child - CRC), as well as the right to be heard and respect for their views (art. 12 CRC), together with the right to privacy and respect and recognition of the dignity of the person (art. 16 CRC) especially when the person is author and victim of crime, the right to care or to support and care designed to allow for the physical, mental, moral and social development to prevent the consequences of the trauma (articles 24 and 27 CRC) and the right to protection from all forms of exploitation, abuse and sexual violence (articles 32-33-34 CRC)
- Legal assistance for the proceedings as a victim and as a person involved in criminal offenses as an author, and if non-EU resident obtaining authorization for a temporary stay in the country

**ACTORS**

- Social professionals
- Humanitarian professionals
- Law enforcement officers
- Juvenile Judicial system officials
- Lawyers
- Child care professionals
- Probation Services
- Guardian/Legal guardian for children
- Social professionals of the Anti-trafficking system also connecting with the country of origin

**OBJECTIVES**

- Provide timely assistance and protection, taking care of the safety of the child
- Observe international standards for the protection of human rights of children
- Ensuring the safety of the child and particularly prevent escape from or abandonment of the shelter
- Ensuring access to basic needs and all information about the options available for long-term assistance, the legal opportunities, assisted voluntary return, etc.
- Build a relationship of trust and facilitate adhesion to a customized assistance project (avoiding the dropping-out)
- Facilitate inter-institutional collaboration, primarily with services for children using existing territorial networks and forms of interaction already active on the side of the counter-trafficking and victim protection (eg. Guidelines, Protocols, etc.)
- Ensure access to long-term assistance and social inclusion opportunities and measures

**ACTIONS TO BE DETAILED INTO OPERATING PROCEDURES**

- Try to work by taking charge of the victim (and his/her family, if protective) as soon as possible, in order to provide appropriate forms of support immediately after the emergence and during the identification process and the later stages
- Carefully evaluate the security problems related to the present and the past in cooperation with the network of local services, the Judicial Authority and the local Law Enforcement Agencies responsible for the case
- Try to exactly understand who are the persons who may represent a danger, including family members
- In case interpreting services are necessary a specific approval declaration must be signed by the appointed guardian
- Provide an appropriate period to recover and to evaluate the alternative options available, including the possibility to collaborate with the relevant authorities (Law enforcement and Judiciary)
- Provide legal assistance to obtain temporary permission to stay in the country taking into account the different obtainable permits and the best interest of the child
- Provide information in a language and in a way that the child can understand at linguistic and substantive levels the functioning of the protection and assistance systems
- Appointment of a trusted lawyer for the criminal proceedings that can involve the child as an author of crime and/or as the injured party (victim of trafficking)
- Identifying the specific vulnerability of the victim taking into account that the person may be already accused of crimes and subjected to restriction of personal freedom as offender
- Arrangement of a child-friendly setting in order to offer an adequate treatment in the shelter according to victim's age and gender

**CONTEXTS FOR FIRST ASSISTANCE**

- Shelters for the protected reception of minors
- Specific shelters for victims of trafficking
- Specific shelters for asylum seekers and refugees

**METHODOLOGIES AND OPERATIVE TOOLS**

- Approach based on recognition of children trafficked or involved in situations of serious exploitation as holders of rights beyond their involvement in criminal offences for which the national legislation does not provide for exemption from liability and mitigating circumstances when linked to trafficking
- Individualized assistance plans that may provide social, therapeutic, educational interventions at individual, family or group level, suitable for a correct processing of the traumatic experiences by the child, for motivation to change, and for reducing the risk of re-victimization
- Linguistic-cultural mediation by trained staff about the cognitive development and the emotional needs of children
- Operate on the basis of the principle of non-discrimination
- Develop a multi-disciplinary team work in a multi-agency dimension between all involved actors – including the trafficked persons and, as they are children, the guardian – in the design and implementation of the tailor-made assistance plan, always highlighting possible alternative options
- Adopt an operational perspective that allows between all parties and agencies involved the sharing of common languages and knowledge, in order to address the phenomenon and facilitate the exchange of information and collaboration between the different areas of intervention
- Adopt a gender, age and culture specific perspective in the implementation of the anti-trafficking services
- Consider the fear that the child may have with regard to possible retaliations by traffickers or being arrested or charged for offences they might have committed and which are not known to the Judicial Authorities
- Consider the role of the family and gather information on the relationship with the child and the situation of the other members of the household to understand any implications in the exploitation, or the actual capacity to protect the child once excluded the possibility of collusion with traffickers
- Pay attention to his/her experiences because in every phase of the intervention process, it is essential to the victim's emotional times, considering the outcomes of trauma
- The interviews should be carried out by specialised professionals trained in working with children and in handling adequate interview techniques, and possibly always with the presence of the guardian

**THE IDEALTYPE PROTOTYPE: AREA DEVOTED TO THE LONG TERM ASSISTANCE OF CHILDREN AND ADULT VICTIMS OF TRAFFICKING AND OTHER SEVERE FORMS OF EXPLOITATION IN FORCED CRIMINAL ACTIVITIES**

**ACTIVITIES**

- The point of referral/NGO assistance provider are cooperating with the assistance provider in the destination country for risk and needs assessment, putting in contact with family psychological support to victims
- Assistance and accompaniment at the voluntary return by IOM and NGO service provider; national anti-trafficking coordinator and NGO service provider or child protection unit in case of child victims; Accompaniment to shelter or point of departure to hometown
- Developing long term assistance services for the victims' social inclusion (available with or without shelter)
  - Financial and material assistance
  - Social assistance
  - Psychotherapy/counselling at individual, group and family level
  - Medical assistance
  - Educational/vocational assistance
  - Legal assistance –counselling and representation in Court
  - Job (re)insertion or support to set up business
  - Providing shelter
- Additionally:
  - Providing transit assistance services for victims in process of reintegration in the destination country travelling to origin to solve administrative issues
  - Providing transit assistance services for victims in process of reintegration in origin country travelling to the destination country for police investigations, Court hearings, etc.

**ACTORS**

- Social Assistance service - child and adult care unit
- NGOs assisting trafficked persons
- NGOs assisting children in distress
- The International Organization for Migration – IOM, mission in origin and destination states
- National Focal Point/Anti-trafficking coordinator
- Specialized Police Units
- Lawyers
- Prosecutors
- Probation services
- Educational/vocational institutions
- Medical care institutions

**OBJECTIVES**

- Facilitate inter-institutional collaboration, among all National/International Referral Mechanisms - NIRM actors, with focus on services providers
- Ensure support to victims in accessing legal rights, including remedies and compensations in national or transnational cases
- Build public-private partnerships between the state social services and NGOs (Protocols; Cooperation agreements).
- Ensure access to long term assistance and social inclusion opportunities and measures for both adult and minor victims
- Create and deliver interventions from a Human Rights perspective, respectively aligned to the child's rights approach
- Improve physical protection and security for the victim and their family
- Foster emotional wellbeing for the victim and their family.
- Improve economic wellbeing for the victim and their family.
- Provide a wide range of assistance services (material, psychological, medical, social, juridical, vocational/educational) for at least 1 year

**ACTIONS TO BE DETAILED INTO OPERATING PROCEDURES**

- Use “standardised” tools in evaluating the situation of the victim: risk and security assessment; needs assessment and re-evaluate both risks and assistance needs at various stages of the assistance programme
- Trying to include both the victim and their family/dependants in the long term assistance programme
- Try as much as possible to work with the origin community of the victim and their family and address the identified shortcomings together with local authorities
- Work with local leaders in case of Roma victims

**CONTEXTS FOR LONG-TERM ASSISTANCE**

- Shelters for minors
- Specific shelters for victims of trafficking
- Specific shelters for asylum seekers and refugees
- The local community and its services
- Educational services
- Vocational guidance and vocational training services
- Enterprises

**METHODOLOGIES AND OPERATIVE TOOLS**

- Use victim-centred approach, work under the Case Management method and involve the client directly, ask for his feedback on the services
- Use individual reintegration plans, comprehensive enough to contain the assistance services from above and design assistance programmes with a duration of up to 3 years and 6 months of monitoring
- Implementing intensive psychological intervention at individual, group and family level, for longer term
- Measuring progresses in assistance by using qualitative and quantitative interventions



## VI.

### DRAFT MEMORANDUM OF UNDERSTANDING

#### FOR THE ESTABLISHMENT OF EXPERIMENTAL AND MULTI-AGENCY COORDINATED ACTIONS AIMED AT TACKLING THE PHENOMENA OF TRAFFICKING AND SEVERE EXPLOITATION OF MINORS IN FORCED CRIMINAL ACTIVITIES

The draft MoU has been endorsed by the participating agencies listed in the attachment (Ministry of the Interior – Public Security Department, Central Directorate Against Crime, Central Operational Service; Ministry of Justice – National Anti-mafia Directorate; the Police Headquarters of 13 provinces; 7 Municipalities; 2 Autonomous Provinces; 9 NGOs).

At present it remains a draft, to be further submitted to the analysis and approval of the Juvenile Judicial System.

This Memorandum of Understanding (MoU) is part of the activities covered in the TEMVI Project and is the outcome of the joint multi-agency training that took place at the Human Rights Centre of the University of Padua with the entities referred to in the attached list.

The MoU contents have been worked out by Elisa Bedin, Cinzia Bragagnolo, Giuseppina Di Bari, Claudio Donadel (Municipality of Venice), Paola Degani, Claudia Pividori (Human Rights Centre of the University of Padua), in collaboration with the Central Operational Service of the State Police, in particular Mariacarla Bocchino and Elvira Tassone. It has been translated in English by Marco Bufo.

#### PRELIMINARY STATEMENT

Trafficking in human beings for the purpose of exploitation in forced criminal economies involves serious violations of fundamental rights of the people who are victims, in particular juveniles. The practices that characterize it are explicitly prohibited in the main international, European and national legislation, which imply human rights legally binding provisions in terms of assistance and protection of the victims.

This draft MoU applies to the territories covered by the experimentation measure that is one of the objectives set by the TEMVI Project in order to encourage the activities aimed at the emergence, identification, referral and first assistance of children (particularly Roma children) involved and/or at risk of being involved in trafficking for the purpose of exploitation in forced criminal economies.

In addition, the present draft MoU is part of the numerous positive experiences in the territories involved in the experimentation, concerning multi-agency work in the field of emergence, identification, assistance and social reintegration of victims of trafficking in human beings and serious exploitation.

Reference is made to the persons whom the safeguards provided for by Italian law can be applied to<sup>84</sup>, namely:

- *art. 13 of Law no. 228/2003 "Measures against trafficking in persons", bearing the establishment of a special assistance program for the victims of the crimes under Articles 600 and 601 of the Criminal Code;*
- *art. 18 of Legislative Decree 286/98, "Consolidated provisions governing immigration and the status of foreigners" which allows the issuance of a special residence permit for reasons of social protection.*

The purpose of this MoU is therefore to enable the implementation of an experimentation on the target of child victims of

serious exploitation in forced criminal economies, characterized by a renewed joint effort between law enforcement agencies and social workers of the anti-trafficking and other related systems for the protection of the child. The purpose is to protect victims and potential victims of trafficking, and more generally of serious exploitation, to prevent and contain this phenomenon and to ensure adequate protection and promotion of human rights to those offended by these serious crimes.

With this action the TEMVI Project intends to follow up the multi-agency training developed in Padua, which was attended by public and private entities of the social action, the Police and the Municipal Police of the Triveneto area (Veneto, Friuli Venezia Giulia and Trentino Alto Adige regions) in order to:

- *support and strengthen the skills on the phenomena of trafficking and serious exploitation with particular attention to the phenomenon of forced criminal activities and the involvement of minors (with a specific study on Roma communities);*
- *share, organize, and possibly identify good practices and procedures of multi-agency collaboration oriented to human rights, with particular reference to the activities of emergence, identification, referral (to the law enforcement agencies, to the social services and/or to private social entities) and the first assistance of Roma children involved in situations of serious exploitation linked to forced criminal activities;*
- *validate the "Ideal-type Prototype of Multi-Agency Practices for a Referral System for Children Trafficked and Exploited into Forced Criminal Activities" that the TEMVI Project produced in view of the training activities;*
- *share information in order to improve existing practices, enhancing their potential at the operational level in the light of the "Ideal-type Prototype" and of the peculiarities that the phenomenon shows, promoting the collection and exchange of knowledge, information and experiences on trafficking and severe forms of exploitation related to the development of forced criminal activities in*

*our country;*

- *translate into operational procedures the actions identified with the development of the "Ideal-type Prototype" as regards the emergence, identification, referral (to the police, to the social services and to private service providers), first assistance of Roma children involved in exploitative situations within illegal economies.*

Accordingly, the objectives of this draft MoU of experimental multi-agency cooperation, developed in the context of the TEMVI Project, are to:

- *assess possible ways for further developing multi-agency cooperation in the fight against severe forms of exploitation associated with forced criminal economies, also in the light of the recent regulatory changes introduced in Italy<sup>85</sup> and of the current characteristics of migration in our country;*
- *appropriately use mechanisms and the system of assistance provided for by the anti-trafficking legislation in respect of persons who for various reasons may be involved in forced criminal activities, with particular reference to children and the Roma community;*
- *strengthen the work and multi-agency cooperation between social workers of the Anti-trafficking, those of other services related to minors and operators of the police headquarters and municipal police forces, in order to promote the emergence, the identification, the referral of and the assistance to Roma children involved in forced criminal economies;*
- *share a number of possible procedures intended as good practices in the field of emergence, identification, referral of and first assistance to Roma children involved in forced the criminal activities on the basis of the "Ideal-type Prototype" defined within the TEMVI Project to prevent and oppose the involvement of children in the forced criminal economy and ensure adequate protection of their human rights.*

Finally, the intention is to concretely boost organic and articulated interventions aimed at promoting local projects to combat the criminal activities described in this document and to enhance the protection of victims, including by rationalizing the procedures already adopted and making the most of existing resources in the territories, in thus consolidating the experiences of collaboration between institutions of different nature and private social entities which have been active for some time in the fight against human trafficking.

#### LEGISLATION REFERENCE

Several, significant national and international documents pay special attention to the multiple types of exploitation in which trafficking of human beings materializes, all worthy of attention in terms of enforcement and protection of victims. It is believed important to mention:

- *the Additional Protocol to the UN Convention against Transnational Organized Crime of 2000 concerning human trafficking, ratified by Italy with Law no. 146 of 2006;*
- *the Council of Europe Convention on Action against Trafficking in Human Beings of 2005, ratified by Italy with Law n. 108 of 2010;*
- *the International Convention on the Rights of the Child of 20 November 1989, ratified by Italy with Law 27 May 1991, n. 176;*
- *Articles 18, 19 and 32 of the Consolidated provisions governing immigration and the status of foreigners, approved by Legislative Decree 25 July 1998, 286 as amended in execution of article 13;*
- *Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA;*
- *Law 11 August 2003, n. 228, concerning measures against trafficking in persons;*
- *Legislative decree of 4 March, 2014, n. 24, Implementation of Directive 2011/36/*

*EU on preventing and combating trafficking in human beings and protecting its victims;*

- *Articles. 600, 601, 602, 603 bis of the Criminal Code relating to slavery, trafficking, sale and purchase of slaves, illicit brokering in the workplace and labour exploitation.*

#### PROPOSAL FOR OPERATING PROCEDURES

The following **Experimental Operating Procedures concerning the emergence, the identification, the referral of and the first assistance to minors trafficked into forced criminal activities, are based on the "Ideal-type Prototype" and have been drafted for the experimentation to be carried out within the TEMVI Project.**

The procedures will be evaluated and adjusted on the basis of concrete cases that professionals and organizations will face in the specific operating situations, in a view of multi-agency cooperation with the anti-trafficking system.

**ACTIONS - What, who, when, where? To be developed as part of the Experimental Operating Procedures (EOPs)**

#### 1. EOP Emergence

**Situation 1:** a child who committed an offense or is an alleged offender is intercepted or stopped by the Law Enforcement

**Participants:** Officers of the Law Enforcement Agencies, Juvenile Judicial Authorities, Social Workers

**Detection of the case Activity**

- *Proceed with the identification of the child also through photographic filing (Law Enforcement Agencies: Frontline officers and units and/or Investigative offices);*
- *Detect any preliminary elements that may refer to situations of trafficking or*



serious exploitation (Law Enforcement Agencies: Frontline officers and units and/or Investigative offices);

• Contact the Juvenile Judicial Authority, a Person in charge for the MoU if appointed (Law Enforcement Agencies: Frontline officers and units and/or Investigative offices);

• Acquire the consent of the Juvenile Judicial Authority to activate the Local Anti-Trafficking Referral System, consisting in the Toll Free Anti-Trafficking Helpline and in a Local Anti-Trafficking Unit made up of social workers from Social Services and/or Private Service Providers (NGOs). In case they are exclusively from Private Service Providers they will need to act on behalf of and in collaboration with the public Social Services responsible in the local area for children and with the Social Services of the Anti-Trafficking System (Law Enforcement Agencies: Frontline officers and units and/or Investigative offices);

• Provide cooperation in following activities: identification, linguistic and cultural mediation, appointment of a lawyer, contacting the relevant Service for Minors and a protected shelter appropriate to the security and wellbeing needs of the child (Local Anti-Trafficking Unit);

• Proceed to the possible hearing of the child and, based on the directions of the competent judicial authority, make use of an expert to be appointed as an auxiliary of the Judicial Police (Law Enforcement Agencies: Investigative offices).

**Situation 2:** Minor placed in a community (not necessarily as an already convicted offender)

**Participants:** Social Workers of the Shelter; Social Services responsible for minors

#### Detection of the case

##### Activity

• Detection of any preliminary elements that may refer to situations of trafficking or serious exploitation (**Social workers of the shelter**);

• Collecting and reporting, within the limits of its statutory mandate, to the Social Services responsible for minors the information regarding the preliminary elements of trafficking or serious exploitation (Social workers of the shelter);

• Activate the Local Anti-trafficking Referral System also in order to evaluate the possible sharing of information on the case with the Law Enforcement Agencies for the profiles of their competence (Social workers of the shelter; Social Services responsible for minors).

## **2. EOP PRELIMINARY IDENTIFICATION OF CHILD VICTIMS OF TRAFFICKING**

**Participants:** Juvenile Judicial Authority, Law Enforcement Agencies, Local Anti-Trafficking Unit, Lawyer

#### Physical and psychological recovery of the child

##### Activity

- Meeting the basic most urgent needs of the child (Local Anti-Trafficking Unit);
- Providing the child with information concerning his/her status (Local Anti-Trafficking Unit).

#### Collection of information for the identification of child victims of trafficking or severe exploitation and identification of indicators of trafficking

##### Activity

- Listen to the child (structured or unstructured interview) in respect of the specific fact, of his/her life habits/routine, etc. (possibility to develop uniform grids for information gathering) (Social Workers of the Local Anti-Trafficking Unit);
- Sharing of information (in the framework of multi-agency cooperation, and within the given institutional constraints), on how the emergence of the child occurred, about family relationships, about the dynamics inside the group the child belongs to, in order to establish a strategy to protect the child and to recon-

struct the profile of the victim and his/her context. Where the representatives of the Law Enforcement and of the Local Anti-Trafficking Unit consider it useful and not of prejudice to the investigation, the lawyer of the child can be heard in order to complete the information on the case. Where possible, identify and share the so called second level trafficking indicators. (Law Enforcement Agencies; Local Anti-Trafficking Unit);

• Proceed with investigative checking of the information collected (Law Enforcement Agencies).

#### Multi-agency assessment of the condition of severe exploitation of the child

##### Activity

- Analyze the data collected in the framework of the multi-agency cooperation (Law Enforcement Agencies; Local Anti-Trafficking Unit);
- Return the picture of the situation to the competent Judicial Authority (Law Enforcement Agencies);
- Determine any further measures concerning the establishment of the age and identity of the child as well as any protected hearing of the child (The competent Judicial Authorities; Law Enforcement Agencies; Local Anti-Trafficking Unit).

#### Risk assessment in respect of the context of origin

##### Activity

- Analyze the role of the family and the relationship of the child with it, as well as with others in the community (Local Anti-Trafficking Unit; Social Services responsible for minors);
- Verify the role of persons who may pose a danger, including family members (Law Enforcement Agencies);
- Establish the security and wellbeing measures for the benefit of the child, in the framework of multi-agency cooperation (Juvenile Judicial Authority; Law Enforcement Agencies; Local Anti-Trafficking

Unit).

## **3. EOP FORMAL IDENTIFICATION OF CHILD VICTIMS OF TRAFFICKING**

**Participants:** Law Enforcement Agencies, Juvenile Judicial Authority, Local Anti-Trafficking Unit, Lawyer

#### Reporting and protection measures

##### Activity

In the framework of already started investigations:

- Report the child victim of trafficking to the relevant social services (Law Enforcement Agencies);
- Initiate a social survey to identify the relevant social services (Local Anti-Trafficking Unit);
- Appointment of a child's lawyer, in relation to any criminal proceedings in which the child is involved, as offender and/or as injured party (including, if needed, for the possible regularization of his/her position as a migrant) (Local Anti-Trafficking Unit);
- Identify the appropriate shelter/residential facility for the characteristics of the emerged individual (Juvenile Judicial Authority; Law Enforcement Agencies; Local Anti-Trafficking Unit);
- Based on the instructions of the competent Judicial Authority, accompany the child to the protected shelter, in case with the Local Anti-Trafficking Unit supporting the Police Officer (Law Enforcement Agencies; Local Anti-Trafficking Unit);
- Take the necessary steps for the appointment of a guardian, if it is the case (Juvenile Judicial Authority);
- Prepare the offence information which may be supplemented by a report by the Local Anti-Trafficking Unit if entrusted by the Judicial Juvenile Authority, concerning the situation of the child in relation to his/her emergence, profile and context of reference (Law Enforcement

Agencies; Competent Judicial Authorities; Local Anti-Trafficking Unit).

## **4. EOP FIRST ASSISTANCE AND PROMPT SAFE HOUSING**

**Participants:** Social Workers of the shelter, Local Anti-Trafficking Unit

#### First Assistance Programme

##### Activity

- Build a child friendly setting to provide hospitality and protection appropriate to the age and gender of the potential / presumed victim (Social Workers of the shelter, Local Anti-Trafficking Unit);
- Provide for the presence of the Social worker in charge of the child (Case manager) in the shelter for the first few hours during the intake procedure (Social Workers of the shelter, Local Anti-Trafficking Unit);
- Ensure the presence of an interpreter / cultural mediator to properly convey to the child the information on available services and obligations/conditions as well as to facilitate the construction of a trust relationship with the shelter workers (Social Workers of the shelter, Local Anti-Trafficking Unit);
- Promptly inform the Social Services responsible for minors even in the event the child immediately or after a few hours leaves the shelter, and communication through written report about the child by the anti-trafficking services (Social Workers of the shelter, Local Anti-Trafficking Unit).

## **ANNEX**

#### **LIST of the subscriber AGENCIES involved in the TEMVI Project Training activity**

- Ministry of Justice – National Antimafia Directorate
- Ministry of the Interior – Public Security Department, Central Directorate Against Crime, Central Operational Service

- Police Headquarters of Belluno
- Police Headquarters of Bolzano
- Police Headquarters of Gorizia
- Police Headquarters of Padova
- Police Headquarters of Pordenone
- Police Headquarters of Rovigo
- Police Headquarters of Trento
- Police Headquarters of Treviso
- Police Headquarters of Trieste
- Police Headquarters of Udine
- Police Headquarters of Venezia
- Police Headquarters of Verona
- Police Headquarters of Vicenza
- Municipality of Venice – Social Inclusion Promotion Service
- Municipality of Venice – Municipal Police
- Municipality of Padova – Local Police
- Municipality of Trieste – Local Police
- Municipality of Rovigo – Local Police
- Municipality of Trento – Local Police
- Municipality of Verona – Local Police
- Municipality of Bolzano – Local Police
- Autonomous Province of Bolzano
- Cinformi, Autonomous Province of Trento
- Equality, Social Cooperative
- Nuovi Vicini
- Associazione Welcome
- Centro Caritas Arcidiocesi di Udine
- Comunità dei Giovani, Verona
- Associazione La Strada
- Associazione Voluntarius
- Azalea, Social Cooperative
- Associazione La Tenda, Rovigo

#### **LIST of the subscriber AGENCIES participating in the TEMVI Project Experimental activity**

- Comune di Venezia - Servizio Promozione Inclusione Sociale
- Equality Cooperativa Sociale
- Nuovi Vicini
- Associazione La Strada
- Associazione Voluntarius
- Azalea, Social Cooperative



## VII.

### OUTLINE FOR THE INTERVIEWS TO STAKEHOLDERS ON FORCED CRIMINAL ACTIVITIES RELATED TO SEVERE FORMS OF EXPLOITATION AND TRAFFICKING

This Interview Outline is designed for the interviews with stakeholders on the phenomenon of the exploitation of both adults and children involved in forced criminal activities.

The same Outline can be used both for interviews / meetings with social workers, and for the interviews / discussions with the law enforcement and judiciary agencies, but of course depending on the interviewed subject, some part of the Outline might be considered more in depth (e.g. the section on the exploiters will be dealt with more in depth with the Judiciary and social workers will probably know better the real condition of adults, children and Roma people).

With appropriate adaptations to the case this Outline can also be used both for the interviews with key agencies operating at the local or regional level and at the national level, for example the representatives of the Departments or of the Ministry running the anti-trafficking system, or operators / representatives of the international protection system or of the protection system for unaccompanied minors or with the personnel of the justice system that deals with the monitoring of the subjects submitted to measures restricting personal freedom, whether adults or minors or others.

The research scenario includes trafficking for forced criminals involving both adults and children, but since there is a specific focus on Roma children, it will be essential to bear in mind this specific target both when identifying and selecting the stakeholders to be interviewed and when doing the interviews, taking care whenever

possible to carve out space to obtain information on Roma minors.

#### DETAILS AND ORDER OF QUESTIONS

The Outline is divided into thematic sections. Each section begins with a question of a generic nature, which is detailed below in a series of more specific questions.

The interviewer should start asking the general question and then, depending on the scope of the response given by the respondent, supplement with additional questions on specific issues that have not been touched by the interviewee.

The Outline is detailed and structured: of course you do not necessarily need to ask all questions, or to place them in the order in which they are presented, but it remains up to the interviewer to follow the Outline to the extent and in the way giving the highest chances to obtain relevant information and achieve the expected results.

The interviews should preferably be recorded (with the consent of the person interviewed), or arranged via e-mail so to have a written record of the contact and the outcome given by the stakeholders. Of course, a preliminary explanation should be given to all stakeholders contacted about the purpose of the interview and the use that will be done of it.

Each researcher will decide whether to transcribe or use another method of registration. It is anyway important to keep track and to make transcripts or take notes of the interviews in view of the final report, in which of course citing the source will be necessary.

Therefore also the following basic information will be recorded:

- Data and general information about the person interviewed and about his/her organization and his/her role in it.
- Data and information on the interviewer and her/his organization.

#### GETTING STARTED /PRELIMINARY INFORMATION

1. Presentation of the Project TEMVI, Forced criminal activities as a new form of exploitation in human trafficking: Knowledge and human rights-based practices through research and pilot multi-agency training and prototype-procedures, and in particular of the Research Activity.

2. Explain briefly what is meant by forced criminal activities and how this category is now included under the Directive 2011/36 of the European Union and the national legislation transposing the Directive itself.

3. Details of the institution / organization and of the interviewee's role: in particular, to understand what the point of examination is (approach of public policy / service, experience in street operational unit / social services / law enforcement procedures or judiciary, etc).

4. Preliminary questions to be asked about the correlation between the various criminal activities and the main targets involved. Questions asking which are the criminal activities that people are forced to perform in coercive and exploitative conditions and if this happens in the country of the person interviewed or in foreign countries and which ones. Questions should also be asked about who these people are (children /adults, gender, which nationality and / or ethnic group they belong to) and in which criminal activities they are distributed. Other questions aimed at obtaining a general overview on the phenomenon and at the same time at identifying the possible specific knowledge aspects on which the interviewee is most able to contribute to.

After these preliminary steps concerning the general situation of trafficking and exploitation in forced criminal activities and related to the identification of the different target groups and the criminal

activities they are involved in, the interviewer can move towards the interview itself, deciding which aspects to examine closely, according to the knowledge the respondent has of the phenomenon and its specific elements.

In order to avoid confusion and overlapping information, the interviewer should ask the same set of questions for each identified target group. Criminal activities are diversified and create different markets (as long as they are not managed and organized by the same criminal networks), depending on the actors involved (it is the same for the street prostitution, indoor prostitution, begging and so on...).

#### 1. ORIGIN, FAMILY BACKGROUND AND SOCIO-ECONOMIC CONDITIONS OF THE VICTIMS

About the groups (minors /adults, Roma minors/adults) exploited into forced criminal activities of which you are aware: from which countries and which family and socio-economic background do they typically come from, what are their characteristics in terms of age, gender and so on... and which paths have they made in their country of origin?

##### In particular:

1. From which countries do they come, from which areas in the country of origin do they come (rural area / small town / big city)?
  2. Do they belong to minorities or specific ethnic groups (eg. Roma)?
  3. Are they both male and female / How old are they?
  4. In what situations and contexts grew they up before the involvement in illegal activities (biological family, foster family, institutions, etc.)?
- If they lived in the biological family, what normally was its social and economic situation (family income insufficient for subsistence / enough / more than enough etc.)?
- Presence of specific problems: death or migration of one or both parents, sepa-

ration, violence, alcoholism, detention and so on...

5. What level of education / training have they achieved in the country of origin?
6. Have they already worked in illegal activities in the country of origin?
7. If yes, how did it start? If they grew up in a family, had the family members an encouraging role or not in relation to these activities?
8. Were such activities forced? In which way?
9. Was the involvement in criminal activities matched with other activities linked to exploitation?
10. If so what? (begging, sexual exploitation, labor exploitation? ...)
11. Have they ever been in prison in the country of origin?

#### 2. DEPARTURE FROM THE COUNTRY OF ORIGIN AND RECRUITMENT METHODS

How and why do generally the groups (minors /adults, Roma minors/adults) exploited into forced criminal activities of which you are aware leave their country of origin and what is the role of the family in relation to human trafficking?

##### In particular:

1. Is the departure from the country of origin an autonomous choice or a more or less suffered decision or a forced departure (e.g. they decide to leave on their own, or their parents force them to leave, or the parents sell / rent them to third parties or they are directly forced by recruiters/traffickers...)?
2. What is the role of the family in this decision? Do you know cases of actual sale of children?
3. Are the groups (minors /adults, Roma minors/adults) exploited into forced criminal activities aware that they will be used in committing illegal activities? And in the case of children with parents, do the parents know about this situation?

4. What are the main reasons for the departure (to earn money to be sent home and / or earn money to achieve the lifestyles of the rich and /or adventure...)?

5. Did exploitation in forced criminal activities constitute from the beginning the goal of the migration project or did it come out only in country of destination or transit?

6. In case of transferring of a person who will be involved in the exploitation to a third party, which kind of agreements are concluded? Which ones in the case of children, between the parents and the buyers (traffickers)?

7. Which are the means/systems by which minors/adults, Roma minors and adults are contacted and recruited by the traffickers /exploiters in the country of origin? What methods of deception or coercion are put in place by the traffickers / exploiters?

8. What about the trip? Do those who managed the travel belong to the same organization that exploit them or are they different? With what kind of connection?

9. Do they have to pay and how much does the trip to reach the country of destination cost? If so, how does the payment take place? (eg. the family into debt, the debt is paid by the child/adult once in the country of destination...)

10. By which criteria is the country of destination chosen? And the city? (chance, rooting of trafficking organizations, migration chain, ineffective policies to combat irregular migration / criminal activities)

11. Are there people that are victimized and fall in the exploitative networks once they have reached their destination country as a result individual vulnerability?

#### 3. LIVING CONDITIONS AND FORMS OF EXPLOITATION

Which are conditions the groups (minors /adults, Roma minors/adults) exploi-

ted into forced criminal activities normally live in the country where the exploitation process takes place?

And how does the exploitation take place?

**In particular:**

1. Who are the main role models for these people (before they possibly come out from the exploitation circuit) ?
2. Where, with whom and under what kind of conditions (hygiene / overcrowding etc.) do they normally they live?
3. In the case of Roma persons, including children, settled in Roma/Gypsy camps (authorized or unauthorized?) how are the relationships within those camps? How is the involvement in illegal activities related to the camps?
4. What are the features of the exploitative networks affecting the groups (minors / adults, Roma minors/adults) exploited into forced criminal activities of which you are aware of? What is the role of their family? Are they brought to the country of destination by organizations that want to exploit them, or do they come to the destination country by "themselves" and are then involved in exploitation once they arrive in their final destination place?
5. What kind of means do the exploiters use to recruit/control them (proposal for profit, offer hospitality, threats etc.)? When are they engaged? Where (road, railway etc.)? What are the situations that normally produce for the minors/adults, Roma minors/adults the risk of entering into contact with an exploitative person/organization?

In the case of exploitation by family network in which manner does the subjection normally take place? (threats, abuse of authority, abuse of a position of vulnerability, violence, sharing/contributing to the livelihood of the family, etc)

6. What are the forced criminal activities they are forced into (pick pocketing, shop-lifting, selling of counterfeit products, fraud, production sale trafficking of drugs... other)? How do they develop these forced illegal activities? And whe-

re, in which area of the city?

7. How is the "typical working day "? Do you know if they work alone or with other people? Adults or children?
8. How much do they earn? What proportion of the earnings should they give to those who exploit them? How do they use the money left to them (to live, to buy fashionable clothes, to send them home
9. What do the exploiters have to offer? (high earnings, protection, support in organizing activities etc.)?
10. What is the level of control of the exploiters over the exercise of those forced criminal activities (control over where, when and how to work or are the exploiters physically present at the place and so on...)?
11. What is the level of coercion on the part of the exploiters and how is it exercised (the threat or use of physical violence, psychological violence, violence against family members etc.)?
12. What kind of relationships have minors /adults, Roma minors/adults with the exploiters (fear, respect, affection...)? To what extent is the exploitation seen as such by underage / age / underage Roma? Why?
13. In cases where there is no coercion on the part of the exploiters (for ex., the child who is "asked" to deal drug dividing the earning or the child with a family member who does pickpockets on the street), in your opinion, what are the elements that allow you/us to speak about exploitation, instead of free choice of the child and / or employment in the family run business (age, the portion of the gain delivered to the exploiter, working conditions, type of activity: theft pickpocketing, other)?
14. In the case of non-EU citizens are allowed to stay in the moment they enter within the circuits of exploitation?
15. What kind of residence permit? For them is it important to have a residence permit? Why yes / no?

**4. THE EXPLOITERS AND THE ORGANIZATION OF EXPLOITATION**

In relation to the cases of exploitation in forced criminal activities you know or you are aware, usually who are the exploiters, how they are organized and how they operate?

**In particular:**

1. Who are the exploiters: nationality, ethnicity, city of origin, age, gender, level of education and respectability (in the sense they are people of some importance in the country or not...), if they are foreigners are they allowed to stay in the country regularly and with what kind of residence permit? Do they carry out a regular job/work in the country where they are? Are the exploiters people which were already related to the victim (or his/her family) in the country of origin, or are they strangers?
2. In case of children, which kind of relationship do they have with their relatives or with other significant persons for the child?
3. Are we speaking about micro-organizations of a few individuals, or structured organizations?
4. If there is a structured organization, what are the characteristics of this reality: size, range of operations, organization on a national /ethnic basis?
5. How does the organization work for stimulating and supporting the departures, how and where does it prepare false documents for travel to or stay in the country of destination, whether and how does it corrupt and who, when and how do the exploiters use threats or violence? How do they circulate the victims in the cities and how do they relate with other criminal groups? What about the level of control practiced on victims and how? And what about the level of specialization (only one form of trafficking or more in terms of purposes), linkages with the regular economic business and labour market (eg. lawyers experts, business and associations as facade for trafficking), relationship with other legal

or illegal activities (existence, purposes)

6. Do you often experience exploiters who have been victims of exploitation/trafficking?

**5. ESCAPE FROM EXPLOITATION**

From your experience, what about the escape from the circuit of exploitation and what are the factors that facilitate the this process and what the factors that hinder it?

**In particular:**

1. What are the motivations and the main factors that drive the minors /adults, Roma minors/adults not to leave the circuit of exploitation (fear of the exploiters, lack of awareness of living a state of exploitation, lack of competitive alternatives in relation to activities that ensure high earnings etc.)?
2. What are the reasons and the key factors that push minors /adults, Roma minors/adults to leave the situation of exploitation (individual desire to live with less risks and violence, or to return home etc.)?
3. In a practice, what happens when someone decides to escape from a situation of subjection (he/she enters into contact with social workers on the street, he/she goes to the social services or law enforcement, he/she calls a toll-free number...)?
4. What are the main contexts in which minors /adults, Roma minors/adults victims of exploitation come into contact with professionals who can facilitate the escape from exploitation (passing the borders, in the places of residence, during the act of crime, in the protected communities or in other places such as...)?
5. What are the main difficulties encountered in identifying minors /adults, Roma minors/adults victims involved in forced criminal activities?
6. How can you recognize a minor /adult,

Roma minor/adult victim of trafficking / exploitation used in forced criminal activities or what are the signs / indicators that should raise suspicion of being in front of a victim of trafficking / exploitation? (signs of violence, the family relationship is not verified by the accompanying adult, restrictions on the freedom of movement ...)

7. What measures/procedures are currently implemented to facilitate the escape from the circuit of exploitation, from the point of view of policies to contrast trafficking and to protect victims (type of practices, the level of cooperation between the law enforcement, judiciary, local authorities, non-profit organizations etc.)?
8. What are the strengths of these procedures? What are the weaknesses? What would you need to change?
9. With regard to the integration process currently offered to minors /adults, Roma minors/adults victims of trafficking in forced criminal activities, which are the limits you can underline? (low earnings of legal work, long training courses, etc. based on the specificities of each country involved in the project ...)?
10. What should be changed?
11. How are the street workers, the shelters, the host centers and generally the different kinds of support proposed perceived by the minors /adults, Roma minors/adults victims of trafficking in forced criminal activities?

What about the reaction of the exploiters when the outreach teams and/or other actors enter into contact with victims (de-nigration, threats, indifference ...)?

**6. SIZE OF THE PHENOMENON AND DATA COLLECTION SYSTEM**

1. If you would estimate the phenomenon, how many are currently the people exploited in forced criminals economies? And the children? Specify the sources of this estimation.

2. These phenomenon, compared to three / four years ago, you thinks is increasing, has remained unchanged or decreased?
3. Do you have a system for collecting data on minors /adults, Roma minors/adults victims of trafficking and exploitation in forced criminal activities? And on the actions implemented and services delivered (contacts on the street, sheltering, assistance programmes, proceedings against the exploiters etc.)?
4. Is it possible to have the data of last year?
5. And id it possible to obtain the survey or data collection form that you normally use to collect the data?
6. How are the data processed? Is there a database?
7. What are the systems used to share and disseminate these data and which are the persons and the agencies involved in the communication process?

In relation to reporting systems, on recognition-identification, referral and protection of victims of trafficking in forced criminal activities do the existing procedures require a series of important adaptations or not?

In particular, should this specific form of exploitation lead to strengthen networking with other agencies or systems? If yes, which ones (e.g. Asylum seekers and refugees System; Unaccompanied minors protection system; Juvenile justice system; others...).

**7. CONCLUSIONS**

Are there other problems or recommendations that you consider important in order to prevent and combat trafficking and exploitation in forced criminal activities and to protect the different kinds of victims?



## NOTES:

### I. INTRODUCTION

1. Marco Bufo is the Transnational Coordinator of the TEMVI Project. In this introduction, he also drew on descriptive texts of the project fruit of the work of several people, in particular: the Project Coordinator Paola Degani, and Claudia Pividori (Human Rights Centre of the University of Padua) and Claudio Donadel (Municipality of Venice).
2. Such process included the collection of the opinions of the most relevant stakeholders from all Member States, and it was supported by the work of the second Group of Experts on Trafficking in Human Beings (THB) of the European Commission, active between 2008 and 2011.

### FRANCE

3. Prepared by Olivier Peyroux and Vincent Dubois (ALC).
4. Art. 4(a), Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw 2005: <http://conventions.coe.int/Treaty/fr/treaties/Htm/197.htm>.
5. <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027805521&dateTexte=&categorieLien=id>.
6. <http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070719&dateTexte=20130916>.
7. <http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070719&idArticle=LEGIARTI000006417887&dateTexte=20111115>.
8. This information was gathered through interviews for the research on slums where these minors live (Saint-Denis and la Courneuve).
9. Law 25/1976 for the inclusion in useful labour of persons fit to work.
10. Also called Gypsy court, this instance of customary law is present in certain Roma groups. It settles especially civil matters, rarely criminal affairs, except for cases of theft. It has also competences on matters concerning the family: marriage, virginity etc. Originally, this instance had the purpose to overcome logics of vengeance by replacing them with a peaceful solution of conflicts. The judges are important members of the community. They must be recognized and accepted by all sides in a conflict and are remunerated by the plaintiffs. Once a decision is made, there is no possibility to appeal.
11. Seaside resort near Constanta.
12. Date corresponding to the ending of short stay visas in the Schengen area.
13. In Milan and Torino certain Roma groups from Bosnia use young girls as pickpockets, and also several families from Fata luncii and Romanesti from Craiova pushed their children to start pickpocket activities – see the study Cash Cash by M. Conte, A. Rampini, O. Marcu: Young Roma and Strategies for Social Prestige. Conference paper Refugee Studies Center, University of Oxford, 2010.
14. Second chance school.
15. Changed surname.

### HUNGARY

16. Prepared by Agnes De Coll (HBA).
17. [http://www.academia.edu/4602286/Criminal\\_Code\\_of\\_Hungary\\_2012](http://www.academia.edu/4602286/Criminal_Code_of_Hungary_2012).
18. [http://www.academia.edu/4602286/Criminal\\_Code\\_of\\_Hungary\\_2012](http://www.academia.edu/4602286/Criminal_Code_of_Hungary_2012).
19. [http://www.academia.edu/4602286/Criminal\\_Code\\_of\\_Hungary\\_2012](http://www.academia.edu/4602286/Criminal_Code_of_Hungary_2012).
20. Based on interview with the manager of the reception center in Békéscsaba (phone interview February 2015).
21. OKIT.
22. Interview with a legal profession of the Hungarian Helsinki Committee.
23. Victim Support Service.
24. OKIT January 2015.
25. Material is provided by the local children welfare office.
26. Information is based on the National Strategy 2013-2016.
27. Information was provided by the Ministry of Interior.
28. Children protection procedure is based on the interview with Child Protection Methodological Services (personal interview, January 2015).
29. Information is based on the interview with the manager of the Szent Ágota Child Protection Service (phone interview, January 2015).

### ITALY

30. Prepared by Paola Degani and Claudia Pividori (University of Padua - Human Rights Centre). The Italian research report was made possible thanks to the significant contributions of several people and a consolidated collaboration between the University Human Rights Centre of the University of Padua and the Municipality of Venice in particular, between Paola Degani and the operators of the Social Inclusion and Protection Office. The latter, have edited and translated relevant parts of this research, including parts devoted to the analysis of the practices and on the prototype for operating for the treatment of trafficked victims involved in forced criminal activities. The Social Inclusion and Protection Office also provided material obtained from the National Anti-Trafficking Helpline database managed on behalf of the Ministry for Equal Opportunities, set up within the Italian Presidency of the Council of Ministers. We thank them for

allowing us to access and consult their data. This research report was also drafted with the contribution of all those who were interviewed and who shared information and their professional experience. Without their contribution our analysis would not have been possible. Likewise, this project would not have been possible without the participation of the partners who shared the professional knowledge, gained in past years on this phenomenon, and without their support, documentation and invaluable comments. Another significant contribution comes from the Italian Ministry of Justice, the National Anti-Mafia Directorate, an associated partner in this Project, represented by Mr Giusto Sciacchitano, the National Anti-Mafia Prosecutor, who provided the data on criminal proceedings in Italy and facilitated the contacts with magistrates, including those of the Anti-Mafia Directorate. This research report also results from an effective collaboration between the Ministry of the Interior – Department of Public Security - Central Anticrime Directorate of the Italian National Police - Central Operational Service, with specific thanks to the personal commitment of its representatives, Ms Mariacarla Bocchino and Ms Elvira Tassone of the Analysis Division, who also managed the contacts with the judiciary police units of Questure in order to gather information for this research. The authors of this research report wish to give heartfelt thanks to all the operators involved, especially Ms Tassone who actively participated in international meetings organized within the Project framework which, since its outset was characterized by multi-agency operations. The Ministry of Interior has also significantly contributed to the identification and a definition of the procedures contained in the Prototype, proposed in the Draft Protocol. Stakeholders also attended a multi-agency Training activity in Italy that included lectures, and the participation of State Police Forces with different commitments and roles.

31. For an overview on the different forms of organized crime and on the services offered by networks that operate in different ways to facilitate irregular migration in the various phases of emergency refer to: G. Sciortino, Un'analisi dell'industria dell'ingresso clandestino in Italia, in F. Pastore, L'Italia nel sistema internazionale del traffico di persone. Risultanze investigative, ipotesi interpretative, strategie di risposta, Department of Economics and Social Affairs – Prime Minister's Office, Working Paper n. 5, 1999. The report constitutes the first part of a research conducted in 1999 commissioned by the Commission for Immigrant Integration Policy, instituted by the Ministry of Social Affairs of the Prime Minister's Office on the criminal phenomenon of human trafficking in its various forms and on the policies and measures adopted at various levels to fight it. Contributors to this report include P. Romani and also F. Pastore who respectively wrote the second part on Condizioni della persona trafficata e mercati di inserimento and the third part on L'azione internazionale per la lotta al traffico di persone: tendenze problemi.
32. On the differences between trafficking in human beings and smuggling of migrants refer to: D. Mancini, Traffico di migranti e tratta di persone. Tutela dei diritti umani e tratta di persone, Milan, F. Angeli, 2008.
33. FRA – European Union Agency for Fundamental Rights, Irregular migrants employed in domestic work: Fundamental rights current challenges for the European Union and its Member States, Luxembourg 2011. This study analyses the work conditions of women migrants in relation to their access to human rights in 10 member states, documenting the main violations.
34. Caritas Italy, National Reception Centre, Punto e a capo sulla tratta. 1° Rapporto di ricerca sulla tratta e il grave sfruttamento, Milan, F. Angeli, 2014.
35. M. Giovannetti, I minori stranieri non accompagnati in Italia. V Rapporto Anci Cittalia, 2014, available on-line from the website: [www.cittalia.it](http://www.cittalia.it). The two years from 2011-2012, saw a surge in the number of minors from southern shores of Mediterranean countries coming to Italy and being taken in charge. Figures on unaccompanied minors show that of those who actually get in touch with Municipal social services, the greatest number of minors comes from Africa (42.6% in 2012 compared to 32.6% in 2010) from Asia (39.3%) while the minors who reached European states, in particular those that are not part of the European Union, are just over 12%. In 2010, the figure represented a quarter of the world's population (25%). Over half of the minors come from three counties: Bangladesh, Egypt and Afghanistan (51.1%), although a consistent number also comes from Albania (8.4% of the total, amounting to 723 minors), Tunisia (5.6%), Ivory Coast (5.2%), Mali, Morocco, Somalia and Senegal. The first 10 countries of origin make up almost 84% of the overall number of minors that have been contacted or have been taken in charge by social services in Italy in 2012.
36. Source DPO, Draft of the National anti-trafficking Plan, Law n. 135/2012 “Converted into law amending the services for citizens”, 'art. 12 “for the suppression of Bodies and Organizations” in suppressing Foreign Minors Committee transfers its functions to the Directorate General of Immigration and Integration policies within the Ministry of Labour, amending the Decree-Law of 6th July 2012 n. 95, leading to urgent dispositions of the spending review of and on Social Policies.
37. The Antimafia Unit - Ministry of Justice is an associate partner in the TEMVI Project. It collaborates in the Project with the Central Operative System of the Italian National Police of the Ministry of Interior.
38. This section represents a summary of a more extended contribution originally prepared by Claudio Donadel.

### ROMANIA

39. Prepared by Gina Maria Stoian (ADPARE).
40. [http://www.antislavery.org/english/what\\_we\\_do/programme\\_and\\_advocacy\\_work/trafficking/race.aspx](http://www.antislavery.org/english/what_we_do/programme_and_advocacy_work/trafficking/race.aspx).
41. <http://www.politiaromana.ro/ro/structura-politiei-romane/unitati-centrale/directia-de-combatere-a-criminalitatii-organizate/structura-organizatorica>.
42. <http://www.politiaromana.ro/ro/structura-politiei-romane/unitati-centrale/centrul-de-cooperare-politienasca-internationala>.
43. [http://www.diicot.ro/images/documents/prezentare\\_romana.pdf](http://www.diicot.ro/images/documents/prezentare_romana.pdf).
44. Most victims stayed in Denmark for 3 weeks.
45. <http://trace-project.eu>.
46. [www.anitp.mai.gov.ro](http://www.anitp.mai.gov.ro).
47. Trafficking in Human Beings in the European Union, KNOWLEDGE PRODUCT, Europol, The Hague, September 2011.

48. <http://www.fei.gouv.fr/fr/nos-projets/focus-sur/euro-trafguid.html>: Practical tool - First level identification of victims of human trafficking for forced begging and exploitation of illicit activities, June 2013.
49. CONFRONT, Countering new forms of Roma children trafficking – Participatory approach –, country report Romania, 2014.
50. [http://www.antislavery.org/english/what\\_we\\_do/programme\\_and\\_advocacy\\_work/trafficking/race.aspx](http://www.antislavery.org/english/what_we_do/programme_and_advocacy_work/trafficking/race.aspx).
51. <http://trace-project.eu>.
52. Trafficking in persons for begging – Romania study, ANITP 2014.
53. Indictment document of July, 01, 2010, DIOCT Iasi.
54. <http://www.fei.gouv.fr/fr/nos-projets/focus-sur/euro-trafguid.html>: Practical tool - First level identification of victims of human trafficking for forced begging and exploitation of illicit activities, June 2013.
55. ANITP, Trafficking in persons for begging – Romania study, 2014.
56. <http://portal.just.ro/43/Lists/Jurisprudenta/DispForm.aspx?ID=1017>.
57. <https://www.europol.europa.eu/content/operation-golf>.
58. <http://www.ziaruldeiasi.ro/local/roman/traficanti-de-copii-scoala-de-hoti-a-produs-miliarde-ni3sdq>.
59. [www.desteptarea.ro/copii-antrenati-sa-fure-din-buzunare-traficanti-de-minori-trimisi-dupa-gratii](http://www.desteptarea.ro/copii-antrenati-sa-fure-din-buzunare-traficanti-de-minori-trimisi-dupa-gratii).
60. <http://www.evz.ro/proxenetii-romani-si-mafia-rusa-buletine-false-pentru-prostitute-minore-1031316.html>.
61. "Shammarriage" The Free Dictionary By Farlex.
62. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/256257/Sham\\_Marriage\\_and\\_Civil\\_Partnerships.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/256257/Sham_Marriage_and_Civil_Partnerships.pdf).
63. [http://www.dreptonline.ro/raspunsuri\\_juridice\\_intrebari/raspunsuri\\_intrebare.php?id\\_intrebare=48882](http://www.dreptonline.ro/raspunsuri_juridice_intrebari/raspunsuri_intrebare.php?id_intrebare=48882).
64. <http://www.nytimes.com/2006/12/18/world/europe/18iht-babies.3939121.html?pagewanted=all&r=0>.
65. <http://www.mediafax.ro/externe/marsilia-patru-romani-condamnati-la-inchisoare-pentru-traffic-cu-bebelusi-14114155>.
66. <http://www.opiniatimisoarei.ro/membrii-unei-retele-criminale-de-traficanti-de-persoane-cautati-in-italia-au-fost-prinsi-la-timisoara/25/04/2012>.
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69. "Trafficking in Persons: Global Patterns", UNODC, Vienna, 2006.
70. <https://www.europol.europa.eu/>, Europol's reports.
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72. Trafficking in Human Beings in the European Union, KNOWLEDGE PRODUCT, Europol, The Hague, September 2011.
73. Trafficking in Human Beings in the European Union, KNOWLEDGE PRODUCT, Europol, The Hague, September 2011.
74. Trafficking in Human Beings in the European Union, KNOWLEDGE PRODUCT, Europol, The Hague, September 2011.
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76. Handbook on trafficking in human beings - indicators for investigating police forces, Council of the European Union, January 2015.
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78. Trafficking in Human Beings in the European Union, KNOWLEDGE PRODUCT, Europol, The Hague, September 2011.
79. <http://www.fei.gouv.fr/fr/nos-projets/focus-sur/euro-trafguid.html>: Practical tool - First level identification of victims of human trafficking for forced begging and exploitation of illicit activities, June 2013.

#### IV. THE LOCAL REFERRAL MECHANISM AND THE CRITICAL AREAS OF CONCERN REGARDING FORCED CRIMINAL ACTIVITIES

80. This section has been written in the original first version by Claudio Donadel in Italian and it has been translated in English by Marco Bufo.
81. According with the suggestions proposed by ALC, the investigative teams are also involved. It is often the dismantlement of a criminal network that shed lights on the cases of children forced to commit criminal activities. Despite the trials none of the children benefit from a protection, none of them have been recognized as a victim. All of them are still considered and treated as criminal. There is no follow up. The rare minors recognized as victims, they have been at the moment of the trials and only in the cases of sexual exploitation.

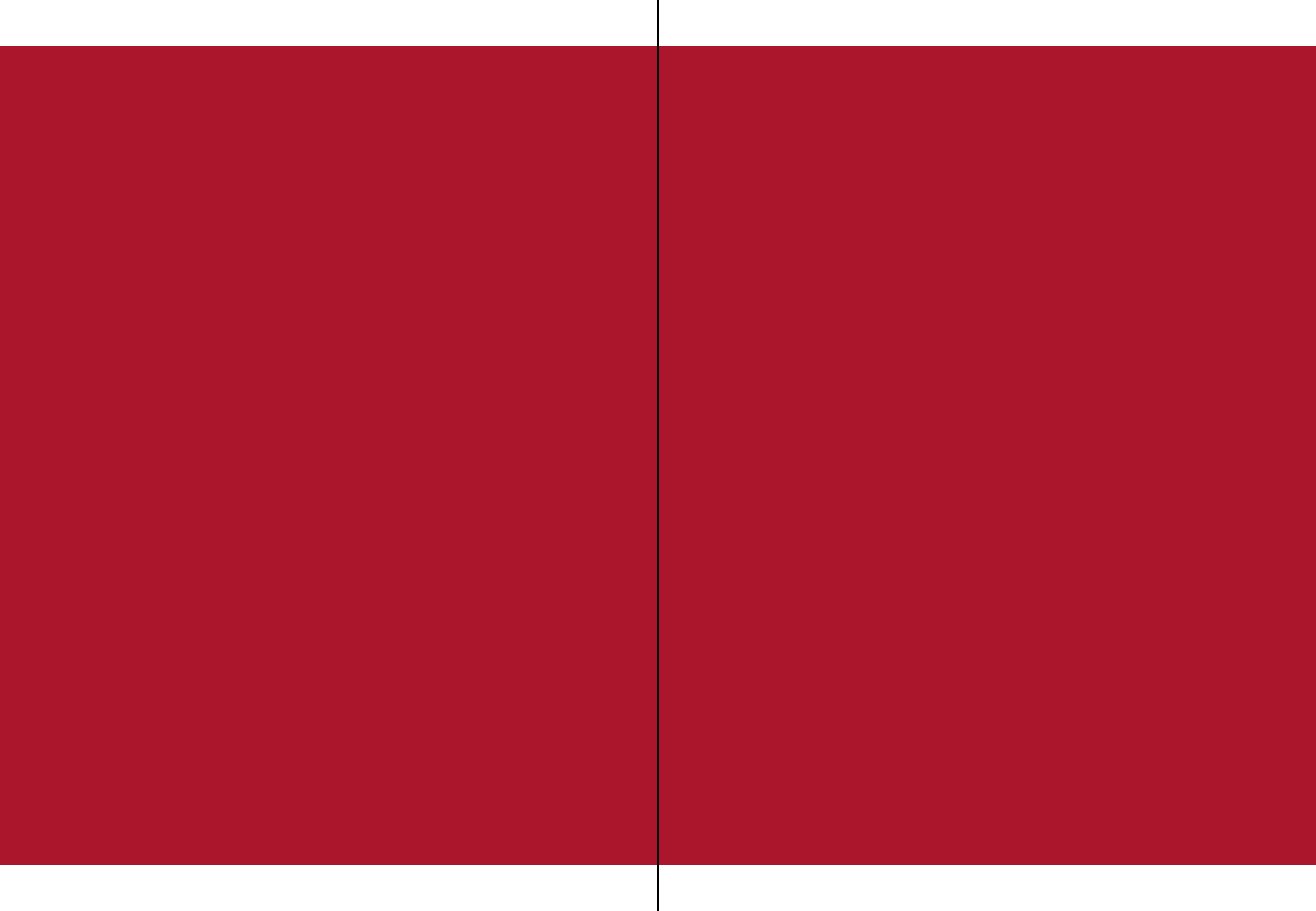
#### V. TRANSNATIONAL IDEALTYPE PROTOTYPE OF MULTI-AGENCY PRACTICES FOR A REFERRAL SYSTEM FOR CHILDREN TRAFFICKED AND EXPLOITED INTO FORCED CRIMINAL ACTIVITIES

82. For a full description and analysis on which the present Idealtypic Prototype is based, please refer to the document "The Local Referral Mechanism and the critical areas of concern regarding forced criminal activities".
83. The model here proposed has been devised and designed by Claudio Donadel in collaboration with the Staff of the Social Unit on Trafficking of the Municipality of Venice and the University of Padua. The chart on long-term assistance has been designed by Alexandra Mitroi, ADPARE. The model has been finalized after the discussions in the Budapest transnational meeting which took place end of May 2015. It represents an Idealtypic Prototype of Referral (identification, protection and assistance) for children (especially Roma) trafficked into forced criminal activities and for combating the crime, to be implemented through a human rights based and multi-agency approach. The Idealtypic Prototype and its multi-agency practices represents the basis for the development of Country-specific Prototypes on the one hand (to be designed by the project partners for each involved country) and of Standard Operating Procedures for Emergence, Identification, First Assistance and Long Term Assistance and Social Inclusion on the other hand (to be designed through the multi-agency trainings and the multi-agency workshops taking place in each partner country between September 2015 and February 2016).

#### VI. DRAFT MEMORANDUM OF UNDERSTANDING FOR THE TRIVENETO AREA

84. With the recent D.Lgs. (Legislative Decree) 4 March 2014, No 24, for the "Implementation of the Directive 2011/36/EU", changes have been introduced in the 2 instruments mentioned above (art. 18 and art. 13) and a "sole programme for the emergence, assistance and social inclusion granting, on a temporary basis, adequate board and lodging and health assistance conditions" has been established, unifying the previously separate, though interlinked, art. 18 and art. 13 programmes. In fact, the new comma 3-bis of art. 18 foresees that for the foreign citizens victims of trafficking or slavery, or who are in the conditions foreseen for obtaining the residence permit for social protection, on the basis of a "National Action Plan against Trafficking and the Severe Exploitation of Human Beings" (art. 13, comma 2-bis, Law 11 August 2003, No. 228 – Anti-trafficking law) a sole emergence, assistance and social inclusion programme applies, granting, on a temporary basis, adequate board and lodging and health assistance conditions (as foreseen in art. 13, Law 228/2003) and afterwards, the continuation of assistance and social inclusion support (as foreseen under art. 18 D.Lgs. 286/98).
85. D.Lgs. (Legislative Decree) 4 March 2014, No 24, "Implementation of the Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (14G00035) (GU n. 60 of 13-3-2014).







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