



Separated Children in Europe Programme



Save the Children

Position Paper on Preventing and Responding to Trafficking of Children in Europe

This Paper represents the Internal SC/SCEP framework for formulating and pursuing shared advocacy goals in the field of trafficking of children in Europe.

Save the Children Europe Group is a network of Save the Children organizations in eleven European countries. Save the Children works globally with and for children to promote and protect their rights. Protecting children from trafficking and its damaging effects is a priority for the members of the Save the Children Europe Group. Save the Children has substantial experience addressing child trafficking and related issues¹. Our activities are based on the UN Convention on the Rights of the Child (CRC) and include research, advocacy, policy development and direct work with children at national and regional level.

In 1997 some members of the International Save the Children Alliance established the **Separated Children in Europe Programme (SCEP)** as a joint initiative in collaboration with the United Nations High Commissioner for Refugees (UNHCR)². An integral part of SCEP is its network of partners from non-governmental organizations (NGOs) across 30 countries throughout Europe³ SCEP has developed a broad definition of the term “separated child,”⁴ which recognises that some children may appear “accompanied” when they arrive in Europe but in practice the accompanying adult may be either unable or unsuitable to assume responsibility for their care. Separated children may be seeking asylum because of fear of persecution or a lack of protection due to human rights violations, armed conflict or disturbances in their own country. They may be victims of trafficking for sexual or other exploitation, or they may have traveled to Europe to escape conditions of serious deprivation.

In order to provide a straightforward account of the policies and practices required to ensure the promotion and protection of the rights of separated children, including those who have been trafficked, the SCEP, together with UNHCR, has produced the **Statement of Good Practice**⁵, which outlines good practice on such specific issues as identification, age assessment, family tracing, guardianship, interim care, the asylum and refugee determination process and durable solutions. *The Statement of Good Practice* has proven to be an effective advocacy tool and many of its principles are reflected in the recently adopted *Council of Europe Recommendation 1703 (2005)*⁶ on Protection and assistance for separated children seeking asylum as well as in the Committee on the Rights of the Child’s *General Comment No. 6 on Treatment of unaccompanied and separated children outside their country of origin*⁷.

¹ Among its priorities, Save the Children works to combat child abuse and sexual exploitation, to protect children deprived of parental care, to ensure safer use of new technologies as well as to improve models for the identification of and assistance to victims of abuse.

² Although the Statement of Good Practice is a joint UNHCR-NGO policy document, this paper does not necessarily represent the views of UNHCR since the SCEP NGO Network often develops its detailed policy positions separately.

³ Members of the NGO Network of SCEP are Save the Children Albania, Asylkoordination Austria, DCI Belgium, Bulgarian Helsinki Committee, Centre for Social Policy Initiatives Croatia, Counselling Centre for Refugees Czech Republic, Save the Children Denmark, Estonian Union of Child Welfare, Central Union for Child Welfare Finland, France Terre Asile, Bundesfachverband UMF Germany, ISS Greece, Menedek Hungarian Association for Migrants, Irish Refugee Council, Save the Children Italia, Latvian Red Cross, Lithuanian Red Cross, CARITAS Luxembourg, Dar is-Sliem Malta, Defence for Children International the Netherlands, Save the Children Norway, Nobody’s Children Foundation Poland, Portuguese Refugee Council, Save the Children Romania, Slovak Humanitarian Council, Slovene Philanthropy Slovenia, Save the Children Spain, Save the Children Sweden, Fondation Suisse du Service Social International, Save the Children UK and The Refugee Council UK.

⁴ Separated children are children under 18 years of age who are outside their country of origin and separated from both parents, or their previous legal/customary primary caregiver.

⁵ The third edition of the Statement of Good Practice is now available in 24 languages with support from the European Union’s Daphne Programme. It is available on-line at:

http://www.separated-children-europe-programme.org/separated_children/good_practice/index.html

⁶ <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta05/EREC1703.htm>

⁷ <http://www.ohchr.org/english/bodies/crc/comments.htm> ; See also Council of Europe’s Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors (2007)

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1. Introduction

Aims and contents

This Paper presents the joint position of Save the Children Europe Group (SC) and the Separated Children in Europe Programme (SCEP) on child trafficking. More specifically, it aims to set a framework for formulating and pursuing shared advocacy goals to promote the rights of at-risk groups and trafficked children in European policy, legislation and practice. It is based on a child rights and victim-centered approach to anti-trafficking efforts and emphasizes the need for improved systems and structures for protection.

SC/SCEP country organizations are engaged in a wide range of activities in the field of trafficking at national level throughout Europe. The need for a common framework for advocacy action arises from a number of factors. First, and from a practical perspective, trafficking is often a transnational phenomenon which involves countries of origin, transit and destination. Second, trafficking is increasingly addressed by regional initiatives, including measures at European Union (EU) level. Third, there is an increased focus on the rights of trafficking victims stemming from international human rights instruments, rather than purely a law enforcement approach. Each of these factors contributes to the need for a framework for use by SC/SCEP organizations.

The Paper does not intend to discuss the situation of child trafficking in Europe comprehensively nor does it aim to articulate all of the potential or detailed advocacy positions that may be developed in relation to child trafficking. The central goal of the Paper is to establish a common understanding of the phenomenon of child trafficking in Europe and the general issues this raises.

To this end, this Paper:

- (1) Provides a broad overview of the factual background to the phenomenon of child trafficking in Europe;
- (2) Describes the manner in which child trafficking has come to be defined in international law and its interaction with the definition of human smuggling;
- (3) Explains and endorses a rights-based approach to child trafficking;
- (4) Outlines the specific obligations of the State to detect, identify and protect child victims of trafficking and to promote their rights;
- (5) Emphasizes the importance and the role of the views of the child in all aspects of work undertaken to prevent child trafficking and to promote the rights of trafficked children;
- (6) Stresses the need for a multi-disciplinary, inter-agency approach when addressing trafficking issues; and
- (7) Promotes a holistic approach to child trafficking.

The bibliography in this Paper identifies some of the major reports, studies and measures that are relevant in the area and that have informed this document.

Child trafficking in Europe – A Background

SC/SCEP's position on child trafficking in Europe derives from a range of background facts and contexts, including: (a) the nature and scope of child trafficking in Europe; (b) the factors which expose children to trafficking; and (c) the international and European response to child trafficking to date. These are discussed very briefly below.

Every year, hundreds of boys and girls are identified as, and many more are believed to be, trafficked in Europe for a variety of exploitative purposes, including sexual exploitation, illegal adoption, begging, theft or petty crimes, and other forms of forced labour. Children may be transported from one country to another one as well as transported within the same country. Trafficked into violent situations, most of these children experience some or multiple forms of violence.⁸

Children become vulnerable to traffickers for a wide variety of reasons. These may involve a complex interaction of factors relating to the broader macro-economic and social context, inter-personal dynamics, family and community beliefs and issues, personal living conditions, psychological factors and individual children's decisions.

Trafficking in human beings in Europe affects persons from both European and non-European countries (in particular, Africa and Asia).⁹

In the case of the former, children who become victims of trafficking often originate from those European countries in which during the last ten-fifteen years major changes have occurred in the political and economic systems (the so-called "transition" from socialism to capitalism and from state to market economy, frequently alongside armed conflicts). These changes have led to a general worsening of social and economic conditions for large strata of the population. Poverty, high unemployment rates, the collapse of the state social protection systems, increasing inequality of income distribution and the breakdown of previously existing social networks within the family and the community are just a few indicators of the dramatic impact of the transition process in virtually all countries in this region¹⁰. Together with the opening up of national borders, this situation has created a strong desire among the citizens of those countries to migrate to seek job opportunities in "richer" economies¹¹. This can make these citizens vulnerable to unsafe migration routes which may ultimately result in them being trafficked. On the other hand, a number of circumstances in "destination" countries act as pull-factors for trafficking activities, including increasing demand for cheap labour, scant regulation of certain labour market sectors and demand for commercial sexual services.

In response, most EU Member States have sought to regulate and limit these new migration movements through enforcing more severe border control and restrictive migration policies. The consequent gap created between "supply" and "demand", alongside underlying factors

⁸ Professor Paulo Pinheiro, Independent Expert, *United Nations Secretary-General's study on Violence against Children* 2006, para 79, page 21

⁹ Rebecca Surtees, *Second Annual Report on Victims of Trafficking in South-Eastern Europe*, Regional Clearing Point/IOM 2005

¹⁰ From the beginning of the so-called "transition", until 2004, virtually all South-East European and former Soviet countries consistently reported per capita levels of gross domestic product (GDPs) that were well below the levels of 1990s. (UNDP, *Europe and the CIS Regional MDG Report. National Millennium Development Goals: A Framework for action*, 2006)

¹¹ Labour migration which produces larger remittances has become a massive phenomenon in some countries of the region. (UNDP, *Europe and the CIS Regional MDG Report. National Millennium Development Goals: A Framework for action*, 2006)

such as wide-spread official corruption and lack of rule of law, especially in post-conflict areas, have allowed a variety of high-profit criminal trafficking activities, implemented both by organized criminal networks and individuals, to flourish. These traffickers seek to profit from the need for dignity and survival of thousands of individuals, including children. Some children are also kidnapped and abducted.

Internal child trafficking is also reported to be on the rise in several South-East European countries in the last few years¹². This stems from the fact that children and adults may also be tempted to move from depressed rural areas to big cities within their own country, seeking job opportunities and better living conditions.

The exact magnitude of child trafficking in Europe is not known given the absence of precise, systematically compiled and comparable data. This is primarily due to the very nature of trafficking, a profitable criminal business whose perpetrators do their best to hide their illegal activities from governments and other organizations. Furthermore, patterns and trends of child trafficking in Europe frequently change, having regard to traffickers' strategies, targets, routes, forms of exploitation etc. Equally, law enforcement and other professionals likely to come into contact with trafficked children very often need a lot of support in building their capacity to identify presumed child victims of trafficking and refer them to assistance. Furthermore, there are no formal centralized data registries at the national level concerning trafficked children, a situation which makes information on numbers, profiles of trafficked children and patterns of child trafficking in Europe rather fragmentary. Much of the available information is collected in shelters and rehabilitation centres managed by NGOs, international agencies and also state institutions, which record information of cases that they have assisted, according to different criteria.

However, based on available data, it appears that we can clearly identify at least two distinct age groups of trafficked children in Europe being exploited in two major ways: adolescent girls trafficked for sexual exploitation and younger boys and girls (aged below 12) exploited (also) for begging and petty crimes. Other reported cases include illegal adoption for exploitative purposes and forms of forced labour.¹³ Boys are also trafficked for sexual exploitation, but there is still very limited evidence and understanding of the scope and modalities of the phenomenon.

Again, systematic information about processes and circumstances under which children become victims of trafficking is still lacking in Europe. Trafficked children often report that they were recruited through deceptive job offers. Adolescent girls have sometimes been lured by a lover/boyfriend who promises to marry them and take them away from home. In some cases, children have apparently been recruited together with their families, who were also under traffickers' control. However, in a variety of cases, the recruiters are adults in whom children placed their trust¹⁴.

Children belonging to some social groups are believed to be particularly exposed to the risk of trafficking due to discriminatory practices, violence or abuse that they experience in their communities and societies. Both gender-based discrimination within the family, at school and

¹² Rebecca Surtees, *Second Annual Report on Victims of Trafficking in South-Eastern Europe*, Regional Clearing Point/IOM 2005

¹³ Mike Dottridge, *Action to Prevent Child Trafficking in South Eastern Europe. A Preliminary Assessment*, UNICEF/Terre des Hommes 2006; Rebecca Surtees, *Second Annual Report on Victims of Trafficking in South-Eastern Europe*, Regional Clearing Point/IOM 2005

¹⁴ Mike Dottridge, *Action to Prevent Child Trafficking in South Eastern Europe. A Preliminary Assessment*, UNICEF/Terre des Hommes 2006; Rebecca Surtees, *Second Annual Report on Victims of Trafficking in South-Eastern Europe*, Regional Clearing Point/IOM 2005

in the labour market, and social exclusion as a consequence of discrimination based on ethnicity¹⁵ may put children at risk. Different cultural norms where children are expected “to grow up” and take responsibility relatively early are some of the factors that make children more vulnerable to traffickers.

At the individual level, some specific areas of vulnerability have been identified among children who grow up in institutions, children with disabilities and victims of domestic violence and sexual abuse.

2. Save the Children and SCEP Position on Child Trafficking

In Section 2.1 below, the definition of trafficking and the frequent confusion between trafficking and smuggling are discussed, before setting forth in Section 2.2 below what a rights-based approach to trafficking means.

2.1 Definition

SC/SCEP consider a **trafficked child** to be any person under eighteen who is recruited, transported, transferred, harboured or received for the purpose of exploitation, either within or outside a country, even if no element of coercion, deception, abuse of authority or any other form of abuse is used.

The first internationally agreed upon definition of trafficking in human beings was adopted in the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime* (Palermo Protocol) as follows:

*(a) “**Trafficking in persons**” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. (Article 3)*

The definition above contains three distinct but interrelated elements:

1. Acts (*recruitment, transportation, transfer, ...*)
2. Means used to commit those acts (*by means of the threat or use of force or other forms of coercion...*)
3. Purposes (*for the purpose of exploitation [which] shall include, at a minimum, the exploitation of the prostitution of others...*)

¹⁵ Roma people are reported to be the subject of different forms of discrimination in Europe. Lack of access to birth registration represents an additional risk factor that exposes children to trafficking, by limiting access to social services to them and their families and by preventing effective tracing of children missing from their communities.. (UNDP, *At Risk: Roma and the Displaced in Southeast Europe*, 2006)

The subsequent paragraph of article 3 of the Palermo Protocol provides that:

*(b) The **consent** of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used*

The Palermo Protocol states that any consent is irrelevant if obtained or followed at later stages by coercive or deceiving circumstances¹⁶, including abuse of power or of a position of vulnerability, even without any use of physical force or coercion. In several cases, there is the initial consent of the individual to some of the acts involved in the process of trafficking (e.g. to migrate, to work illegally or to participate in prostitution). Yet, if at any stage of the process the person does not have the realistic possibility of giving free fully informed consent or refusing any act, trafficking occurs¹⁷.

Given the context in which the Palermo Protocol has been conceived and applies namely – international cooperation to combat transnational organized criminal activities and groups – much of the anti-trafficking work has largely focused on persons trafficked from one country to another¹⁸. However, children, women and men are also trafficked *within* their own country (from rural to urban areas or from one town to another). SC/SCEP consider that the internal trafficking of children is also a priority that needs to be addressed through its programming since it equally violates children's rights.

Child Trafficking

In the case of a child, the entire question of the consent is irrelevant. Article 3 (c) of the Palermo Protocol states:

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article

In accordance with the CRC, the Palermo Protocol defines a "child" as *any person under eighteen years of age* (article 3 (d)).

The forced labour and slavery-like exploitation is the crucial element of child trafficking. Indeed, the common factor that identifies a trafficked child is the exploitation to which s/he is subjected. Therefore, in order to respond to child trafficking, it is essential to focus on the element of "exploitation". That being said, while it is clear that the child has been trafficked when the process reaches its intended exploitative outcome, the exploitative purpose does not necessarily need to be fulfilled for the crime of trafficking to take place – as in many cases the intent of exploitation is discovered and can be detected during the initial transportation of the victim.

¹⁶ Deception can relate to the nature of the services to be performed as well as the conditions under which the person will be forced to perform such services.

¹⁷ This applies also to those persons who entered prostitution voluntarily and were later subjected to work under coercive or slavery-like conditions in the sex market by any means set forth in article 3 of the Palermo Protocol.

¹⁸ Though the definition of "trafficking in human beings" provided by its article 3 (and analyzed above) does not include border crossing as one of the constituting elements of this crime and has been further used as the basis of a definition for other anti-trafficking instruments which have a broader scope than the *UN Convention against Transnational Organized Crime*

Based on the definition of trafficking provided by the Palermo Protocol, the exploitative purpose/outcome may include¹⁹:

- Sexual exploitation (including the exploitation of prostitution of others or and other forms of sexual exploitation – such as pornography and forced marriages)
- Forced labour or services²⁰
- Slavery²¹ or practices similar to slavery, servitude or
- The removal of organs²².

In order to contribute to the establishment of effective identification systems, States should ensure that "exploitation" as such is defined in national legislation.

The Palermo Protocol focuses on potential trafficked persons "especially women and children." Indeed, the majority of anti-trafficking policies and programmes have tended to focus solely on trafficking for the purpose of sexual exploitation. There is a need to increase the attention paid to other forms of forced labour or services and slavery-like practices that result in the exploitation of trafficked children.

Child trafficking implies the violation of a wide range of children's rights. Therefore, while sharing the definition provided by the Palermo Protocol as illustrated above, SC/SCEP base their response to child trafficking on the existing international human rights instruments, primarily on the CRC.

Trafficking versus Smuggling

Since trafficking in human beings involves moving persons for profit, it is often confused – in policy as well as in practice – with smuggling of migrants, which is the subject of another Protocol²³ supplementing the *UN Convention against Transnational Organized Crime*. According to this Protocol:

(a) "Smuggling of migrants" shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident (Article 3)

Comparing the definition above to the one of trafficking in human beings, the following main differences emerge:

¹⁹ The term "exploitation" is only partially defined in article 3 of the Palermo Protocol, despite suggestions made by different parties to include an all-encompassing definition.

²⁰ Defined as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily" (Article 2 (1) *ILO Convention No. 29 Concerning Forced Labour*)

²¹ Defined as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised" (*Slavery Convention, 1927*)

²² The Palermo Protocol does not specifically mention the recruitment of children for hazardous work or illegal adoption. However, in accordance with other binding international legal instruments, States should take action to stop any person under 18 from being employed in hazardous work and from being adopted in violation of the applicable international law on adoption (respectively, the *ILO Convention No. 182 On the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour* and the *Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption*).

²³ *UN Protocol against the Smuggling of Migrants by Land, Sea and Air* (2000)

Trafficking in human beings	Vs	Smuggling of migrants
Violation of human rights	<i>Nature of crime</i>	Crime against a State
<ul style="list-style-type: none"> • Transnational or internal (no border crossing) • (If transnational) legal or illegal border crossing 	<i>State borders</i>	Illegal border crossing
Exploitation of the persons – the major purpose is the continuing exploitation of the person who is being moved	<i>Purpose</i>	Profit from facilitating the migrant’s illegal crossing of the border – the relationship between smuggler and migrant usually ends after the border crossing and payment of the smuggling fee
<p>Either no consent, or initial consent invalidated by use of coercive or deceptive means</p> <p>In the case of children: consent always irrelevant (even if no coercive or deceptive means are used)</p>	<i>Consent</i>	Usually migrant consents to being smuggled

However, smuggled persons are often victims of human rights violations, though the crime of smuggling itself does not include crimes which may be committed against the smuggled migrants. Moreover, some cases may involve elements of both crimes (e.g. a person is trafficked to another country crossing its borders without proper legal documentation). Additionally, in some cases migrants may be smuggled into a country and later be deceived, transported further and forced into trafficking and exploitation.

In all cases, the protection of the person against human rights violations including exploitation for forced labour or slavery-like conditions should always be the primary concern.

2.2. A principled child rights-based approach to child trafficking

This section describes the key principles underlying a rights-based approach to child trafficking. SC/SCEP emphasise the critical importance of a rights-based approach, as opposed to an approach primarily guided by law enforcement concerns.

SC/SCEP consider the UN Convention on the Rights of the Child and its principles the basis for all their work, including all efforts in relation to trafficking in children.

The CRC and its *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography* provide clear commitments to prevent trafficking as well as to protect and to assist at-risk and trafficked children. The [key principles enshrined in the CRC](#) should be emphasized and respected when working with at-risk and trafficked children.

- As many case studies illustrate, trafficking violates the child’s [right to protection](#). Such abuses may include physical and mental violence (art.19.1), economic exploitation (art.32) and sexual exploitation (art.34).

States should protect every child from any exploitation and abuse and ensure his/her safety. As an important preventive measure, States are obliged to provide special protection and assistance to children deprived of their family environment.

- The [best interests of the child](#) should be the primary consideration in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies (CRC Art. 3).

All considerations related to immigration or crime control should be secondary. It is crucial that children suspected of being victims of trafficking should neither be detained²⁴ nor subjected to criminal procedures for offences related to their having been trafficked.²⁵

- Furthermore, according to the [non-discrimination principle](#), States Parties shall respect and guarantee the rights set forth in the CRC to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status (CRC Art. 2).

This means that trafficked children should be entitled to the same treatment and rights as other children. They should be treated as children first and foremost; considerations of their national or immigration status should be secondary. In practice this means that national child welfare systems should be responsible for, and child protection legislation should be applied to trafficked children, including those who are outside their country of origin.

- With respect to the [right to participate](#), States should assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child (CRC Art. 12).

For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting him/her, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

- Additionally, States should recognize the [right to life](#) and ensure the [survival and development](#) of the child, including care, health and education (CRC Art. 6 and Art. 27)

This implies that States are responsible for preventing trafficking since it is likely to endanger the survival and development of the child affected. Additionally, respecting the rights to life, survival and development requires States to carry out a thorough risk and security assessment before returning children to their country of origin in order to determine whether return is in the child's best interests or whether it will threaten their right to survival and development.

²⁴ CRC General Comment No 6: In application of article 37 of the Convention and the principle of the best interests of the child, unaccompanied or separated children should not, as a general rule, be detained. Detention cannot be justified solely on the basis of the child being unaccompanied or separated, or on their migratory or residence status, or lack thereof. See also SCEP *Statement of Good Practice*, p 18.

²⁵ UNOHCHR *Recommended Principles and Guidelines on Human Rights and Human Trafficking* (2002) States should consider ensuring that children who are victims of trafficking are not subjected to criminal procedures or sanctions for offences related to their situation as trafficked persons. Also see the CoE *Convention on Action against Trafficking*: Article 26 – Non-punishment provision. See also SCEP *Statement of Good Practice*, p 13-14.

2.3 State Responses to Child Trafficking²⁶

The obligations of States in relation to child trafficking run across the whole trafficking cycle from prevention to prosecution. This section of the Paper focuses on the specific obligations of States to detect and identify child victims of trafficking and thereafter to protect and assist them.

SC/SCEP emphasise that, in accordance with human rights standards, all States should develop legal frameworks consistent with the CRC and other relevant international instruments to prevent trafficking in children and to assist and protect children who have been trafficked

Unfortunately, violation of children's rights not only happens during the trafficking process—recruitment, transport and exploitation—but States often violate children's rights after they have escaped from their traffickers by detaining children, punishing them and deporting them to uncertain circumstances in their home country or in a transit country. Hence it is critical for States to put in place concrete procedures which will proactively identify trafficked children and thereafter actively promote their rights both as regards immediate assistance needs and as regards durable solutions.

Specific Measures

Proper training procedures should exist to ensure that State officials detect and respond to possible situations of child trafficking in a proactive and rapid fashion.

A presumed trafficked child should automatically be granted a temporary residence permit on humanitarian grounds and be entitled to stay in the country on a valid legal basis pending identification of a durable solution, whether or not they co-operate with the criminal justice system.

Assistance to a trafficked child should not be dependent on his or her willingness to cooperate with the authorities. The child should have access to emergency medical treatment, care, accommodation, health care (physical and psychological), social assistance, education and vocational training on an equal basis with national children, counselling and information, translation and interpretation. Quality standards related to the care and protection of trafficked children should be in place to ensure non-discrimination as well as professional monitoring of all aspects of their care and assistance. Child victims of trafficking should never be criminalised.

All assistance services to trafficked children or children who are suspected as having been trafficked should be provided in a confidential, non discriminatory and non stigmatizing manner.

Furthermore, as soon as a separated or unaccompanied presumed/trafficked child is identified²⁷, the child protection system should appoint a guardian²⁸, who has the function of

²⁶ For further references see the CoE *Convention on Action against Trafficking in Human Beings* as well as other guidelines noted in the attached bibliography.

²⁷ Sometimes children can be trafficked together with adult members of their family. In such situation, it is crucial to ascertain what is the exact role of these relatives in relation to the trafficking of the child.

²⁸ As advocated in the SCEP *Statement of Good Practice*, the guardian should be an independent, trained professional. For more recommendations regarding the guardian's role, see CRC General Comment No. 6

acting in the best interest of the child and accompanying the child throughout the process. Custody and guardianship may also be the concern of the judicial and child welfare systems even when the presumed trafficked child's parents are present, especially if they have been implicated in criminal acts related to the trafficking.

Where the age of the individual is uncertain, due to the absence of papers or to false identity papers, and s/he claims to be less than 18 years of age, the presumption should be that the individual is a child and s/he should be provisionally treated as such. Age assessments should take into account physical, psychological and cultural factors, should never be forced and should be carried out by independent professionals with appropriate expertise. In making an age determination, children should be given the [benefit of the doubt](#).

When necessary, [tracing](#) for a child's family should be undertaken as soon as possible, provided that it does not endanger the child or the child's family in the country of origin. Children should be properly informed and consulted about the process and their views taken into account. Where appropriate, the carer or legal guardian should facilitate regular communication between the child and her/his family.

Child-friendly procedures should be developed and implemented to support and protect those trafficked children who co-operate with the authorities on investigation and prosecution efforts. Such measures should support the child's participation while aiming to avoid re-traumatization.

A formal best interests determination should take place to identify a durable solution for the child, taking as a primary consideration the best interests of the child.

Children who have been trafficked should be returned only if [return is in his/her best interests, safe and assisted](#). The child should be fully informed and consulted at all stages and provided with appropriate counselling and support.

Trafficked children should never be returned to their country of origin if:

- following a risk assessment, there are reasons to believe that the child's safety or that of their family is in danger, taking into consideration *inter alia* risks of re-trafficking, reprisals from the traffickers, exploitation, abuse, involvement in armed conflicts, persecution;
- the family has not been traced or does not agree or is not able to provide the child immediate and long-term care; other suitable care-givers different from the family may be considered only if the child agrees;

Before returning a child to a country of origin, states shall ensure that return is in the best interests of the child by²⁹:

- considering a comprehensive assessment (including risk assessment), which has been carried out by an independent and professional organisation of whether it is safe to return the child to his or her home country, and of the family situation
- consulting with the child's carer and guardian/adviser in the host country to ascertain whether it is in the child's best interests to return
- confirming that the child's parents, relatives or other adult care-taker agree to provide immediate and long-term care upon the child's arrival in the country of origin

²⁹ See more at CRC General Comment No 6

- ensuring that the child is fully informed and consulted at all stages and is provided with appropriate counselling and support
- taking the child's views and wishes on return into consideration, in accordance with his/her age and maturity
- providing an account for how the best interests determination was made and conclusions reached, also reflecting how the view of the child was taken into consideration

Prior to the return, contact between the child and his/her family should be facilitated and a reintegration project (including education, vocational training, employment opportunities etc.) should be proposed to the child and the family. During the return the child should be properly accompanied.

After the return, a reintegration project should be implemented, also through development cooperation, and the well-being of the child should be effectively monitored.

If return is not in the best interests of the child, long-term care, long-term residence permit and an individual integration project should be provided in the host or in a third country. This should include a comprehensive treatment plan where necessary.

In order to understand why some children are trafficked while others in similar socio-economic conditions are not, it is important to collect, analyze and continuously update comparable data concerning the social, family and individual profile of trafficked children and to learn more about the complex interaction of risk, protective and decision-making factors that expose some children to trafficking. In all cases, States must preserve the privacy of an individual subject.

States are responsible for ensuring that the rights of trafficked children are protected and promoted, and that their specific assistance needs in trafficking situations are fully met. Civil society and non-governmental organizations should monitor the effective implementation of the rights of trafficked children, as well as supplement governments' efforts in providing assistance, in the framework of a clear mandate and in compliance with agreed quality standards of assistance and operating procedures.

2.4 View of the Child

This section addresses and emphasises the importance and role of the views of the child in all aspects of work undertaken to prevent child trafficking and to promote the rights of trafficked children.

SC/SCEP consider the participation of children as a crucial and integral part of all aspects of the work to prevent child trafficking and to protect and promote the rights of trafficked children

The right to participation (CRC Art.12) binds States to ensure that children who are capable of forming their own views enjoy the right to express those views freely and to have them given due consideration in all matters affecting them,- including trafficking.

Institutions, international agencies and NGOs working to prevent and combat child trafficking should listen to and consult with children, in particular children considered as being “at high-risk” and trafficked children, when designing and developing their anti-trafficking interventions.

Child trafficking interventions should consider children as actors, not as passive recipients of assistance. Anti-trafficking initiatives should include and prioritize the empowerment of children to actively participate in claiming their rights.

Considering children as *actors* in the specific context of trafficking, i.e. as active subjects who make decisions, does not run counter to recognising that they are *victims* of major violations of their fundamental rights, and therefore in need of assistance and protection.³⁰ It is imperative that child victims of trafficking are identified as such before the criminal justice system and that they be treated as victims of a serious crime, rather than as criminals.

Furthermore, acknowledging children to be actors does not by any means imply that they are “guilty” or responsible for taking decisions or actions that result in or are related to being trafficked. Indeed, children can never be viewed as having consented to being trafficked. That being said, children have the right to participate and be considered at the centre of any anti-trafficking interventions as rights-holders and key social actors.

Ensuring their participation is a crucial step in empowering children who are vulnerable to or who have survived trafficking, as well as in promoting their active learning about trafficking issues³¹.

To date, there is still a limited understanding of which factors expose some children to a higher risk of trafficking than others, what trafficking means to children and which interventions could increase children’s access to resources that they can use when facing trafficking situations. In gaining a deeper understanding about child trafficking, the meaningful participation of both previously trafficked children and children in situations identified as “at risk” should be always sought, whenever it is compatible with the paramount priority of respecting the child’s dignity, privacy, safety and well being.³²

Likewise, involving children in designing and implementing awareness raising activities to prevent child trafficking contributes to the empowerment of children and young people and encourages them to identify opportunities in their lives. It is often difficult for conventional social workers to make contact with children and young people who have suffered exploitation and abuse, including trafficking, while their peers can reach them more easily and thus have the opportunity to convey to them informative messages.

Furthermore, institutions and organizations working to combat child trafficking should develop effective approaches to measure and document the results of their interventions. A

³⁰ In this respect, the use of the term “victim” does not intend to label that child as a “passive subject” or to diminish his/her potential resilience and ability to cope with the trauma suffered and to recover from it. To the contrary, it stresses that trafficked children have suffered a serious violation of their rights and are therefore entitled to adequate assistance and protection.

³¹ As is the case with any other form of assistance provided to trafficked children, promoting their participation and active involvement in anti-trafficking interventions should be carefully planned, implemented and monitored according to clear ethical guidelines reflecting child rights standards.

³² Trafficked persons may hold very sensitive information about criminal groups. Their lives and those of their families may be at risk of retaliation. Moreover, their stories very often raise reactions of stigma and rejection by their communities. Therefore, States shall ensure that all organizations involved treat data concerning the presumed trafficked persons in a strictly safe and confidential fashion. For further reference, see Council of Europe, *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data* (1981) <http://conventions.coe.int/Treaty/en/Treaties/Html/108.htm>

critical impact assessment is essential to ensuring more targeted and effective responses to child trafficking. Such approaches should aim at assessing what changes have been achieved in the lives of targeted children, focusing primarily on receiving direct feedback from those children, using child-friendly techniques and ensuring safety, confidentiality and the well being of children involved.

2.5 Collaboration with other agencies: a multi-disciplinary & inter-agency approach

This section addresses the need for a multi-disciplinary, inter-agency approach to anti-trafficking work and protection of at-risk and trafficked children.

SC/SCEP promote a multi-disciplinary and inter-agency approach to anti-trafficking work and protection of at-risk and trafficked children, involving a wide range of actors with clear responsibilities and mandates, working according to agreed procedures and quality standards of assistance.

SC/SCEP are among many actors, including government administration, law enforcement, judiciary bodies, social services, civil society/NGOs and regional/international organizations that are involved in anti-trafficking work.

SC/SCEP promote a multi-disciplinary and inter-agency approach to anti-trafficking work and protection of at-risk and trafficked children. Clear roles and responsibilities must be identified in order to ensure that all actors respect their mandates while applying their particular strengths and complementing each others' action. Cooperation between agencies is essential to ensure effectiveness and appropriate response as well as to capitalize on the role that each organization has to play, be it governmental authorities, international organizations or civil society/NGOs.

The main responsibility to address trafficking lies with Governments and other duty-bearers in their obligation to realize children's rights. SC/SCEP will supplement and support work of governments to elaborate, improve and implement national and regional anti-trafficking action plans and child protection systems.

SC/SCEP also emphasize the role of local communities, parents and care givers, family members and local authorities, including schools, in anti-trafficking work. SC/SCEP will support and work together with these actors to ensure that they assume their responsibility to prevent trafficking and protect and support trafficked children.

Co-operation between state agencies like police, migration, child protection and social workers, lawyers and judges is essential to ensure that child victims are identified and offered protection, legal assistance and support. SC/SCEP promote the establishment of National Referral Mechanisms³³ that involve relevant actors, promotes dialogue and provides support for capacity-building.

³³ A National Referral Mechanism is a co-operative framework through which state actors fulfill their obligations to protect and promote the human rights of trafficked persons, co-coordinating their efforts in a strategic partnership with civil society. (OSCE/ODIHR, *National Referral Mechanisms: Joining Efforts to Protect the Rights of*

SC/SCEP recommends the establishment of minimum standards of assistance to trafficked children, to be provided by mandated service providers in compliance with agreed standard operating procedures.

Networking and exchange of information at national and regional level contributes to capacity building and to establishing good practices. To this end, SC/SCEP support efforts to build capacity and foster collaboration between agencies e.g. through training initiatives and support in collaboration with national and regional authorities.

Furthermore, employers can play a role to assure that their work is free from exploitation and trafficking. SC/SCEP will work with the corporate sector, employers organizations and governments to ensure that international obligations on corporate social responsibility and exploitation of exploitative and harmful child labour are respected.

SC/SCEP encourage multi-disciplinary research, and supports joint initiatives that bring together experts from areas such as socio-anthropology, law, children's rights, child psychology, economy etc.

SC/SCEP will advocate the adoption of a code of conduct by all agencies, including governmental agencies, working with at-risk and trafficked children to ensure that children under their mandate and care are not abused or exploited by the very same agencies

Finally, SC/SCEP recognize the role of media in exposing child trafficking and shaping public opinion. A primary concern is that publicity on trafficking respects the rights of children, and that victims are protected. In working with the media, SC/SCEP will put the interest of the child first and assist journalists to communicate information in a way that respects and protects children. Guidelines have been developed to avoid re-victimization .³⁴

3. Taking a holistic approach to programming and advocacy

This section promotes a holistic approach to child trafficking by briefly addressing some areas with which child trafficking can be linked.

SC/SCEP emphasize the need to undertake a holistic approach to child trafficking, which mainstreams multi-sectoral interventions to protect the rights of trafficked children and children at risk of trafficking. Measures to address child trafficking should be placed more decisively within the broader child protection programming framework. This means creating and strengthening effective national child protection systems, including prevention, monitoring and reactive interventions

SC/SCEP recognize that measures to prevent child trafficking and to protect trafficked children and at-risk groups cut across many different areas of work.

In short, child trafficking in Europe is linked to other issues, including (but not limited to): migration, violence/sexual abuse and exploitation, harmful child labour, and working with groups of children at high risk of and/or potential victims of trafficking (children deprived of

Trafficked Persons. A Practical Handbook, 2004,. Further information at:
http://www.osce.org/odihr/item_11_13591.html

³⁴ Save the Children, *Guidelines on Child Trafficking and Media Coverage*, 2004

parental care, children with disabilities, children in conflict with law and children affected by harmful traditional practices).

These are discussed briefly in turn below, accompanied by broad recommendations as to the sectoral State actions which should be taken in their regard from the perspective of trafficking concerns.

Children in migration

As mentioned above, in Europe, trafficking in persons is very often prompted by migration as a development and survival strategy. Most persons who are trafficked as a result of having attempted an unsafe migration path identify the desire to look for a job abroad as the main reason for becoming vulnerable to trafficking³⁵. Other reasons to migrate include the absence of a child friendly environment and lack of developmental opportunities.

In the context of migration, children can be exposed to the risk of trafficking in different ways. They may decide to migrate and opt to travel, alone or together with parent(s) or a relative, relying on unsafe options; or they may be deprived of parental care in cases when one or both parents have left abroad, and thus find themselves in risky situations (see below). In the alternative, even if they find a safe route to a destination country, they may become vulnerable to traffickers once they have reached that country either because they are separated from their parents or because of their – often - irregular status.

States should work to improve measures aimed at identifying and providing assistance to vulnerable children in migration – who may be traveling alone or with others. Furthermore, they should ensure access to the territory to all separated children and should seek to ensure durable solutions in the best interests of separated children within their territory, potentially including asylum

States should also strengthen child welfare and protection systems, to provide assistance and protection to those children who are deprived of appropriate care as a result of parents' migration.

Violence/sexual abuse and sexual exploitation

Children may be harmed and suffer violence in many ways from being trafficked.

The World Health Organization (WHO) defines violence against children as “the intentional use of physical force or power, threatened or actual, against a child, by an individual or group, that either results in or has a high likelihood of resulting in actual or potential harm to the child’s health, survival, development or dignity”³⁶. Further in accordance with article 19 of the CRC, violence is defined as including “all forms of physical and mental violence, injury

³⁵ Rebecca Surtees, *Second Annual Report on Victims of Trafficking in South-Eastern Europe*, Regional Clearing Point/IOM 2005

³⁶ World Health Organization. *Report of the Consultation on Child Abuse Prevention, 29–31 March, 1999*. Geneva: World Health Organization, 1999

and abuse, neglect³⁷ or negligent treatment, maltreatment or exploitation, including sexual abuse”.

Save the Children defines sexual abuse and exploitation as “the imposition of acts, or acts with sexual overtones, by one or more persons on a child”³⁸. Child sexual abuse refers to the immediate abusive act against a child and forms the basis of child sexual exploitation; it includes indecent touching, penetration and sexual torture, as well as indecent exposure, using sexually explicit language towards a child and showing children pornographic material. People sexually abusing children may have an emotional or professional relationship with the child, where they exploit their position of trust and power. Children may, however, as in the case of trafficking, be sexually exploited by traffickers or third parties having a commercial or other exploitative interest in the child.

Indeed, sexual exploitation of children is frequently the main purpose, or even the origin, of a trafficking operation. Traffickers exploit children in order to make a profit and trafficking for sexual exploitation has become a big business. Children are lured or forced to make their bodies available to others and their exploitation may be depicted on child abuse/pornography images and films. In addition, violence is considered to be one of the factors that expose children to higher risk of being trafficked. Based on data available from identified victims of trafficking, sexual abuse and exploitation experienced in the family or community may be one of the factors that expose children to higher risk of trafficking³⁹.

Sexual abuse and exploitation of children through trafficking constitutes a form of coercion and violence against children that is harming them tremendously. Sexual abuse is an invasion of the child’s most intimate zone, a violation of the child’s physical and psychological integrity and a transgression of the moral norms of the child and the society. It creates physical damage and fear in the girl or boy, who may be harmed for life physically and mentally⁴⁰.

Thus child protection should aim to strengthen systems and mechanisms of protection, both formal and informal, involving the state, communities, and carers in order to prevent, respond and redress the abuse, neglect and exploitation of children. It also includes preventive actions with awareness raising and child participation.

The links between trafficking and the production, distribution and collection of child abuse images are complex and not well researched or defined. Images of child sexual abuse may be produced locally and transmitted via the new technologies to other countries so in effect not requiring the trafficking of the child victim. However, there is anecdotal evidence that suggests that children are being trafficked to other countries to be sexually abused by established internet networks and for the production of child abuse images. Because of the secrecy and dangers involved in uncovering this form of abuse, it is very difficult to undertake scientific research in this area⁴¹.

³⁷ Neglect is a major contributor to mortality in young children, including failure to meet children’s physical and emotional needs, protect them from danger, or obtain access to medical or other services when needed.

³⁸ The International Save the Children Alliance, *Save the Children’s Policy: Protecting Children from Sexual Abuse and Exploitation*, 2003. Available at www.savethechildren.net

³⁹ Rebecca Surtees, *Second Annual Report on Victims of Trafficking in South-Eastern Europe*, Regional Clearing Point/IOM 2005

⁴⁰ Save the Children, *10 Essential Learning Points: Listen and Speak Out against Sexual abuse of Girls and Boys. Based on country reports from Save the Children in Canada, Colombia, Brazil, Nicaragua, Syria, South Africa, Mozambique, Rwanda, Uganda, Bangladesh, Nepal, Spain and Romania.*

⁴¹ There have been cases where networks of child sexual abusers have been involved in the live transmission of sexual abuse via the Internet (<http://news.bbc.co.uk/1/hi/world/americas/4811196.stm>). These have been linked

There is a need to raise awareness about how new technologies are used to produce and distribute images of child sexual abuse, and that in some cases this will mean that children are trafficked from one location to another to facilitate this abuse.

International inter-agency collaboration needs to be strengthened and legal frameworks that can be enforced trans-nationally need to be put in place. The identification of children who are abused for the production of these child abuse images must be given priority at national and international political levels.

Awareness raising amongst child protection professionals and civil society about this issue is of paramount importance. More resources should be put into studying the link between the production and distribution of child abuse images and trafficking.

Harmful Child Labour

Save the Children defines harmful child labour as labour that is exploitative or likely to be hazardous; labour that interferes with child's education or is harmful to her/his health or physical and emotional development. In its worst forms, harmful child labour involves children being separated from their families, living in slavery-like conditions, for commercial sexual purposes, in armed conflicts or for illicit activities, and trafficking⁴².

Besides being the intended exploitative outcome of a trafficking process, harmful child labour can expose children to the risk of trafficking, connected to the multiple risks of living and working in a dangerous environment and by withdrawing them from the potentially protective and empowering influence of school.

National governments should improve their legislation and policies aimed at protecting children from exploitation; they should include child labour concerns in their poverty reduction strategies and policies; and they should put in place protection systems that prevent and respond to the labour exploitation of children.

Root causes of harmful child labour (at social, economic and cultural levels) should be thoroughly analysed, and interventions aimed at addressing them should involve children affected and their families and communities. The private sector should also be mobilized to take responsibility to prevent and address harmful child labour at the work place.

Drop-in centres, outreach units and other services should be set up and strengthened to proactively identify children victims of labour exploitation, including trafficking, and to provide them with timely, qualitative and adequate assistance.

States should increase investments in education that is flexible, relevant and of good quality and responds to the specific needs of working children.

to trafficking. In one case the police arrested a Danish couple who were in the process of taking their child to Germany to be sexually abused. When their computer was analyzed by the Danish police, it gave information about a comprehensive international network of child sexual abusers. Many other parents and caretakers involved in this network were found to be exchanging their children for sexual abusive purposes as well as transmitting live broadcasts of the abuse over the internet with other members of the network (<http://news.bbc.co.uk/1/hi/world/americas/2183748.stm>)

⁴² Further information available from: International Save the Children Alliance, *Save the Children's Position on Children and Work*

Working with children at special risk of trafficking

A variety of groups of children are considered to be at special risk of trafficking, including those groups of children identified below, namely, children affected by harmful traditional practices, children deprived of parental care or at risk of abandonment, children with disabilities and children in conflict with the law.

Children affected by harmful traditional practices

Harmful traditional practices refer to types of violence that have been committed against girls and women (in most cases) in certain communities and societies for so long that these abuses are considered a part of accepted cultural practices. These violations include among others, female genital mutilations, forced marriages, honor killing, dowry murder.

Some of these harmful practices, such as forced marriages, are increasingly linked to trafficking as they sometimes involve transportation to Europe or elsewhere of girls without their consent and without having full information about what is awaiting them⁴³ for the purpose of exploitation⁴⁴. In addition, forced marriages can put girls and women in a position of vulnerability and risk of trafficking, pushing them to become involved in risky situations in order to escape the unfavorable or exploitative conditions that forced marriages may entail.

Existing legislation on forced marriages in European Union should be enforced and in some cases strengthened to stop parents from moving their children to countries where this practice is carried out.

Affected children living in EU countries should be educated on their rights and be encouraged to report when these rights have been violated. Victims should be entitled to proper care and support. Information on the negative consequences of forced marriages as well as on existing laws should be provided to migrant communities.

In-depth studies on the linkage between trafficking and harmful traditional practices, especially in the case of forced marriages, should be carried out in order to gain a better understanding of the magnitude of the problem.

Children deprived of parental care or at risk of abandonment

Lack of adequate parental care may expose children to several risks and dangerous situation. This circumstance depends on a number of factors, mainly related to the effectiveness of the child protection system and measures aimed at preventing child abandonment and at protecting children left without appropriate parental care.

In countries where there are weak child protection systems, lack of parental care may result in the child entering a negative cycle of marginalization and discrimination, which can lead to abuse and exploitation, including trafficking. Children deprived of parental care lack the necessary emotional and physical protection and support. Moreover, they may be compelled

⁴³ However – as explained above – the issue of consent is irrelevant for defining child trafficking, even when no deceptive or coercive means have been used.

⁴⁴ CoE/PACE recommendations 1723 and 1468 from 2005
<http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta05/erec1723.htm>

to work and/or abandon school, in order to provide the basic material needs to themselves (and sometimes their siblings). They may end up living and/or working in the streets, or being placed in an institution. According to the existing literature, the above-mentioned are all factors that are likely to expose children to a higher risk of trafficking.

States should support families in parenting in order to enable children to live with their families rather than in institutions. Where this is not possible, children placed in institutions should be provided with study opportunities and assistance to find a job and a place to live after they become adults and have to leave the institution. Foster homes and institutions should be regularly monitored.

Children with disabilities

Children with disabilities experience profound and widespread violations of their rights. These children are very often excluded, taken away from their parents and placed in institutions. They often end up on the street for a variety of reasons, including economic and social factors⁴⁵.

Children with disabilities are particularly vulnerable to different forms of exploitation, including trafficking⁴⁶. They are some times exploited for the purpose of begging; sometimes disabilities are inflicted on children, or they are obliged to pretend to be disabled, in order to generate more pity⁴⁷. Children with learning disabilities are likely to be particularly exposed to trafficking because they could be more easily manipulated.

In addition, specialized assistance services for child victims of trafficking with disabilities are most often not available, due to lack of resources and professional skills adequate to meet the needs of those children.

Article 23 of CRC obliges State Parties to recognize that child with mental or physical disabilities should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community. In addition, article 7 of the Disability Convention⁴⁸ requires states to take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children; it also emphasizes the requirement to ensure the best interest of the child, and requests governments to ensure their right to express views and have them taken into consideration with due weight to their age and maturity, and to provide disability and age-appropriate assistance to realize that right⁴⁹.

States should adopt all measures in order to ensure that children with disabilities enjoy all their rights, and in order to prevent all forms of exploitation, violence and abuse including trafficking.

⁴⁵ Committee on the rights of the child, General Comment No.9 (2006). Children with disabilities.

⁴⁶ In some countries of Europe (Albania, Serbia), persons with disabilities are disproportionately represented among identified victims of trafficking (Rebecca Surtees, *Second Annual Report on Victims of Trafficking in South-Eastern Europe*, Regional Clearing Point/IOM 2005).

⁴⁷ Mike Dottridge, *Action to Prevent Child Trafficking in South Eastern Europe. A Preliminary Assessment*, UNICEF/Terre des Hommes 2006.

⁴⁸ UN Convention on the Rights of Persons with Disabilities, article 7 – Children with disabilities
<http://www.un.org/disabilities/convention/>

⁴⁹ Furthermore, article 16 of the Disability Convention requires states parties to take all appropriate measures to prevent all forms of exploitation, violence and abuse, as well as to promote the physical, cognitive and psychological recovery and social integration of persons with disabilities who become victims of any forms of exploitation, violence and abuse, taking into account gender-, age- and disability-specific needs.

States should also provide measures for recovery and reintegration of child victims of trafficking with disabilities, which take into account age and other specific needs.

Children in conflict with the law

Trafficked children are often forced to commit illegal activities – either as a direct result of the purpose they are exploited for, or as a consequence of the trafficking process (illegal border crossing etc.). In Europe, children are trafficked for – among other purposes – begging, petty crimes and other street crimes, housebreaking, shoplifting, prostitution, and other activities often criminalized by national legislations.

As a result, some of the children who come in conflict with the law in European countries become victims of trafficking and exploitation. Some of them travel with their families; others have been "entrusted" or sold to other adults, who often pretend to be their parents or otherwise legally entitled to accompany the child. In several cases, children trafficked for these forms of exploitation report to have been subjected to severe forms of abuse, including corporal punishment and physical torture, as a means for traffickers to control them and force them to obey their orders⁵⁰.

To date, States have paid very little attention on investigating into the links between juvenile crimes (especially committed by migrant children) and trafficking and severe forms of exploitation. Children who are trafficked and forced to commit illegal activities are often arrested and treated as perpetrators, rather than as victims of a serious crime. No clear procedures are in place in order to identify child victims of trafficking involved in these forms of exploitation.

More research is needed to understand the link between crimes committed by children and trafficking and other severe forms of exploitation.

States should ensure that children who are victims of trafficking for any forms of exploitation are not subjected to criminal procedures or sanctions for offences related to their situation as trafficked persons⁵¹. They should be treated instead as victims of a serious human rights violation and crime and therefore entitled to protection and enabled to access and receive assistance – in accordance to their best interest.

⁵⁰ Save the Children Italia, *Progetto "Orizzonti a colori", Rapporto annuale 2005-2006*; Mike Dottridge, *Action to Prevent Child Trafficking in South Eastern Europe. A Preliminary Assessment*, UNICEF/Terre des Hommes 2006

⁵¹ UNOHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking (2002)

Summary of key-recommendations

This Paper aimed to presenting the joint position of Save the Children Europe Group (SC) and the Separated Children in Europe Programme (SCEP) on child trafficking. More specifically, it aimed to set a framework for formulating and pursuing shared advocacy goals to promote the rights of at-risk and trafficked children.

To this purpose, SC/SCEP:

- Consider a trafficked child to be any person under eighteen who is recruited, transported, transferred, harboured or received for the purpose of exploitation, either within or outside a country, even if no element of coercion, deception, abuse of authority or any other form of abuse is used
- While sharing the definition of trafficking provided by the Palermo Protocol, consider the UN Convention on the Rights of the Child (CRC) and its principles as the basis for all their work, including all efforts in relation to trafficked children
- Emphasize in accordance with human rights standards that all States should develop legal frameworks consistent with the CRC and other relevant international instruments to prevent trafficking in children and to assist and protect children who have been trafficked
- Consider the participation of children as crucial and integral part of all aspects of the work to prevent child trafficking and to protect and promote the rights of trafficked children
- Promotes a multi-disciplinary and inter-agency approach to anti-trafficking work and protection of at-risk and trafficked children, involving a wide range of actors with clear responsibilities and mandates, working according to agreed procedures and quality standards of assistance
- Emphasize the need to undertake a holistic approach to child trafficking, which mainstreams multi-sectoral interventions to protect the rights of trafficked children and children at risk of trafficking. Measures to address child trafficking should be placed more decisively within the broader child protection programming framework implying creating and strengthening of effective national child protection systems, including prevention, monitoring and reactive interventions.

Essential Bibliography

The bibliography listed below is limited to the resources that have substantially informed this document, as well as those policy documents (e.g. guidelines) with which that SC/SCEP largely agrees and to which SC/SCEP would like to refer as a background to the positions taken above, in particular, as regards those aspects or issues related to child trafficking which are not covered by the present Position Paper. It therefore does not refer exhaustively to the wealth of literature existing on the topic of child trafficking in Europe.

1. ECPAT, *Combating the Trafficking in Children for Sexual Purposes* 2006
2. ECPAT, *Combating The Trafficking In Children For Sexual Purposes. Questions and Answers* 2006
3. ICMPD, *Regional Best Practice Guidelines for the Development and Implementation of a Comprehensive National Anti-trafficking Response*, 2005
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17. UNOHCHR *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, 2002
18. VVAA, *Report of the Experts Group on Trafficking in Human Beings*, European Commission 2004