

ISBN 978-91-980572-3-2

The views, opinions and conclusions expressed by the author in this report are not necessarily those of the Expert Group for Cooperation on Children at Risk, EGCC.

TABLE OF CONTENTS

The project group	4
Introduction.....	5
Selected case histories of children who were exploited in begging and criminal activities.....	7
Exploitation of children in begging and criminal activities in Lithuania, Norway, Poland and Sweden.....	11
Child trafficking and related concepts in the national legislation	13
The criminalisation of child trafficking and legal definitions.....	13
The meaning and scope of exploitation	15
Identification of child victims and children at risk.....	17
The challenge of identification.....	17
A broader approach to identification: Working with the concept of a 'child victim of crime'	19
Cooperation between the police and the private sector for the identification of child trafficking cases	20
Identification through low-threshold services: The role of social outreach services	21
Identifying possible involvement of trafficked children in the sale of drugs.....	21
Collaboration between emergency social services and the police for the identification of child trafficking cases in Stockholm	22
Institutionalised cooperation and coordination mechanisms.....	23
Centralised expertise to address child trafficking: Country examples	24
The International Chambers of the Swedish Prosecution Service.....	24
A supervisory and monitoring function within the General Prosecution Service in Poland.....	24
The Child Protection and Adoption Service in Lithuania.....	25
Cooperation and coordination mechanisms at the local levels	25
Building regional networks to address child trafficking cases in Poland.....	25
The role of the National Task Force in strengthening inter-agency cooperation on human trafficking cases in Sweden.....	26
Police work with young people at risk in Lithuania	26
Police outreach work and inter-agency cooperation for crime prevention in Oslo	26
Coordination unit for children at risk in the Oslo City Centre	27
Inter-agency cooperation for the investigation of human trafficking cases: The EXIT Project in Bergen.....	27
Support and assistance for child victims and children at risk.....	28
Bilateral cooperation in the area of child protection	29
Closed institutions for child victims of trafficking in Norway and in Sweden	30
The best interest of the child: A common ground for inter-agency cooperation.....	31
The right of the child to be heard: A key to building trust	33
"How I like to be treated" - Children's experiences with the authorities in Sweden	33
Interpretation and cultural mediation	34
Hearing child victims and witnesses.....	35
The Children's House (Barnhus), Stockholm.....	35
Victim status and compensation.....	36
Victim-witness protection	37
Social media.....	37
Conclusions and Recommendations.....	38
Annex.....	43
Acronyms	43
The international definition of trafficking in human beings and child trafficking as afforded under the UN Trafficking Protocol.....	43
Translated excerpts from the national criminal legislation.....	44

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INTRODUCTION

In 2002, the Council of the Baltic Sea States (CBSS) established an Expert Group for Cooperation on Children at Risk (EGCC), a group of representatives from the ministries responsible for child policy in the CBSS Member States. The Expert Group set up the Children's Unit within the CBSS international secretariat and created a special regional framework for cooperation on child rights and child protection. Through its programmes, the EGCC has addressed the situation of unaccompanied and trafficked children in the region since 2003¹.

In all CBSS Member States, children are known to be exposed to exploitation, including in the context of trafficking. The national governments have committed to address child trafficking, nationally as well as through the regional cooperation of the CBSS, within the European Union and the Council of Europe. Significant progress has been achieved in setting up structures and measures for the identification and referral of child victims, the investigation of cases and the prosecution of perpetrators. Yet, only few children are officially identified and registered as victims of trafficking each year. Service providers report higher numbers, based on their experience of working with child victims and children at risk.

The experience with addressing child trafficking in the region is concentrated mainly on cases of sexual exploitation. There is, however, evidence and a growing awareness that children are exposed to many different and multiple forms of exploitation. An area that has thus far received limited attention is the exploitation of children in begging and criminal activities. With the adoption of the new EU Directive on human trafficking in 2011, governments have specifically committed to address these forms of exploitation². It is therefore timely to document and share the experience made with these types of cases as well as related good practice and challenges. In many European countries, children

are known to be involved in begging and other street based activities or in criminal activities such as petty crime, burglary, stealing, and drug dealing. The children concerned include nationals and non-nationals from within the EU and from third countries. Although the authorities at the local and central levels of 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, or migrant and asylum seeking children. In the case of Roma children, their involvement in begging, other street based activities or petty crime is often perceived according to common stereotypes as a 'cultural issue' and a 'personal choice' that is not condoned but tolerated. The possible links to organised exploitation and trafficking are not necessarily recognised and investigated.

Child protection services and law enforcement agencies are equally struggling to identify and understand these cases and to respond in an appropriate way that is child-centred and rights-based. Their attempts to safeguard the rights of the children and remove them from the risky or exploitative situations do not always succeed. Some children consent to cooperating with the police, to exit the exploitative situations and to accept the services they are being offered. Others refuse and their motivations are manifold.

In order to investigate the challenges that child protection services and law enforcement agencies are confronted with when addressing these cases, the EGCC launched the programme 'Children trafficked for exploitation in begging and criminality: A challenge for law enforcement and child protection'. The programme builds on the outcomes of a regional conference on child trafficking organised by the EGCC and the Norwegian Ministry of Children, Equality and Social Inclusion in June 2011³. The conference identified concrete challenges and difficulties that law enforcement and child protection services are confronted with when investigating and responding to the cases of children involved in begging and criminal activities.

1 For more information, see: Child Centre, Expert Group for Cooperation on Children at Risk, available at: <http://childcentre.info/>, accessed on 3 November 2012.

2 The European Parliament and Council of the European Union, 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, Official Journal of the European Union, Brussels, 15 April 2011, Article 2.3.

3 The report from the conference 'Trafficking in Children - A criminal act calling for a child protection response', held in Oslo on 20 - 21 June is available at: <http://www.childcentre.info/report-from-the-conference>, accessed on 3 November 2012.

The EGCC programme on child trafficking for exploitation in begging and criminal activities offers an opportunity for joint learning and reflection between the different agencies involved in addressing these cases. The programme aims to develop recommendations on how the cooperation of child protection services and law enforcement agencies can be strengthened in order to better respond to and prevent the exploitation of children in begging and criminal activities. It also aims to identify and document concrete solutions and good practice examples. The programme was implemented during the year 2012 with funding provided by the Swedish Institute Baltic Sea Unit and the Government of Norway. Four countries participated in the programme: Lithuania, Norway, Poland and Sweden. They represent different socio-economic situations and are considered countries of origin, transit and destination of child trafficking to different extents. Some of the country representatives had previously cooperated bilaterally in the investigation and prosecution of child trafficking cases and victim assistance and were therefore able to report on their experiences made and lessons learned.

Each country participated with a team of four professionals from the prosecution service, law enforcement agencies, the child protection or social welfare services, and a national child rights NGO. The programme was implemented through four national consultations and one final round table meeting between May and November 2012. At the national consultations, each country team presented the most pertinent questions and challenges as well as concrete solutions for addressing the exploitation of children in begging and criminal activities in their countries. Additional experts from different thematic backgrounds and agencies contributed to the group discussion in each country. The group also visited institutions for children and other facilities and locations that are particularly relevant to the theme. The final round-table meeting opened the discussion up to representatives from other countries.

This report draws significantly on the information shared during these consultations and the group discussions. It notes where consensus was reached and where it was lacking. The input from the participating professionals is not considered representative of all professional experts in the four countries but reflects hands-on experience and illustrates, through examples and individual experiences, the perspectives of the different actors involved in addressing the cases under study.

The views, experiences and recommendations of children and young people who have been exposed to exploitation or were considered at risk of trafficking have also informed this report. In one of the participating countries, a girl who had been trafficked and exploited in stealing agreed to meet with the group to talk about her experiences with the authorities. The girl had cooperated with the police and had received assistance in her home country and in the country where she had been exploited. A trusted social worker accompanied her to the meeting with the project group. In Sweden, the staff of the NGO Children's Rights Bureau collected the views and recommendations of unaccompanied asylum seeking children whom they had supported in their contacts with Swedish authorities and transferred their views to the project group.

In preparation for the national consultations, each country team prepared a set of guiding questions for the discussion. The chapters and sections of this report reflect these questions as well as a synthesis of the information, good practice examples and contentious issues that were identified through the group discussions in response to these questions.

The report starts with a brief summary account of what has been reported on the exploitation of children in begging and criminal activities in the four countries. It proceeds then to discuss selected elements of the legal framework concerning child trafficking and exploitation. It revisits legal concepts and definitions and to which extent they are applicable to the exploitation of children in begging and criminal activities. A cross-cutting theme of the report is the cooperation between law enforcement and child protection services and the achievements and challenges encountered in this regard in each of the four countries. This theme leads through the discussion of how child victims of trafficking and children at risk are being identified and assisted, and how the authorities organise their cooperation vertically between the central and local levels and horizontally in cooperation across agencies and departments. The main interest of the report is to document experience and promising examples from each of the countries, to identify contentious issues and challenges encountered and how they have been confronted or overcome. The report concludes with a summary of the key observations and findings and selected recommendations for law, policy and practice.

SELECTED CASE HISTORIES OF CHILDREN WHO WERE EXPLOITED IN BEGGING AND CRIMINAL ACTIVITIES

Sweden: The case of Ana⁴

Ana is a 15 year old Roma girl from Romania. Her family was living in poverty and was making a living from begging. As begging is illegal in Romania. Ana's parents travelled extensively for begging. During the parents' absence, Ana was living with her grandmother and did the domestic work and cooking for the family. Ana had attended school for three days only. Her parents did not send her to school as she had to take care of her siblings and there were rumours that Roma girls get raped at school.

In Romania, Ana had started to beg at the age of eight. When she was 12 years old, she was married and the money that her parents received from the husband's family was used to support the family. When the money was spent, the parents went to Sweden for begging and took Ana along for the first time at the age of 14. After her return to Romania, Ana got divorced in February 2010. Then she turned 15 and her parents took her back to Sweden where the family lived in the streets for a few nights before they moved into a room in a shared apartment. Ana's parents brought in another Roma family so that a total of seven persons were staying in a single room, sharing the rent. During this time, Ana did the domestic work and cooking. She did not speak Swedish and hardly any English.

Ana was sitting on the streets every day from the morning to late in the evening begging for money, even when it was raining or very cold. Her parents were begging as well or playing the harmonica on the street. They came to see Ana every now and then in order to collect the money that she had made or to bring her some food. Ana collected an average of 300-400 SEK per day (approx. 40 Euro). She did not use any of the money for herself and during the days she found food among the leftovers at a fast food restaurant.

Ana was first noticed by the social outreach workers who notified the police and the social services. The police started to investigate the case as a human trafficking case and a social investigation was opened also by the social services. Ana and her parents were observed during day times when they were out on the streets and additional evidence was gathered through phone tapping. After about two weeks of surveillance, the prosecutor decided to arrest the parents as they appeared to be exploiting the girl. The social workers referred Ana to a child care institution. As the social services had experienced that 90% of the children who are suspected to be victims of trafficking go missing from the institutions that they are placed in, they sought to place Ana in an institution from where a child cannot easily leave. The placement was considered to protect the girl from harming herself, as afforded under the Care of Young Persons Act. This type of placement is possible when an investigation is opened and has to be approved by a court. Usually, the social services seek to offer assistance on a voluntary basis first but in Ana's case, the placement was motivated by the suspicion that she was a victim of trafficking.

Ana appeared to be a happy girl and was very self-confident. She did not show any visible signs of traumatization, neglect or maltreatment. Yet, Ana felt miserable in Sweden and did not like it at all when she was placed in the institution. She was missing her grandmother and wanted to return home to her. She did not have any close contacts at the institution and, due to language barriers, could not speak to the other children. The police and prosecutor noted the challenges that arise from cultural differences when interrogating or hearing the suspects and defendants. When interviewed by the police, the parents admitted that they had taken Ana to Sweden for the purpose of begging. They considered begging a way of making a living and did not know or understand that the circumstances constituted a criminal offence in Sweden. Ana returned to Romania before the trial started, so a hearing with the judge, prosecutor and defence lawyer was convened at a preliminary stage of the investigations.

⁴ Name changed.

In Ana's case, the prosecutor considered the elements of trafficking fulfilled according to the Swedish Penal Code: She was transported and harboured by her family, she could not get to Sweden or leave the country by herself and was therefore dependent on her parents. Ana was carrying a mobile phone, but she could only receive calls from her parents and could not make any calls herself. Everything she earned was taken by her parents and used to support the family in Romania. Ana's involvement in begging could therefore be considered exploitation. Using a child in this way is not acceptable in Sweden and the social services would have interfered much earlier if the case concerned a Swedish girl and family.

The court decided however that the case did not constitute human trafficking and the parents were not convicted. The court stated that Ana's living conditions in Sweden were not worse than they had been in Romania. As the whole family lived in poverty, begging for them was a way to survive. Since the parents were living in the same way as Ana, according to the court, she was not exploited by her parents and the case did not constitute a crime. The appeal court affirmed the decision of the first instance court.

Sweden: The case of Cristina⁵

Cristina is a Roma girl from Bulgaria. She was travelling in Denmark and Sweden with an adult man, a Bulgarian citizen called 'Uncle', who used a proxy⁶ stating that her parents had consented to her travelling with him. They were in Sweden from May to September 2006 when Cristina was 11-12 years old. The case was taken to court only in 2011.

Cristina's father was the head of the network that organised her travels and exploitation. He held a high-level position in the local authority where the family lived. The family was comparatively well off in their home community. The parents had eight children, some of them adopted. Some of the children had been sexually exploited in prostitution in the Czech Republic.

Cristina was caught stealing the handbags of clients in supermarkets in the northern parts of Stockholm and

was referred to the local social services. When the Uncle came to collect her, the social workers refused to let her go with him and said that they wanted the parents to come pick her up. Her father came a few days later but the social services did not let Cristina go. They decided to investigate the case as Cristina had previously been caught stealing and had been handed over to the Uncle in many different locations in Sweden.

Since Cristina was under 15 years old when she was apprehended, there were no written records at the police or the social services. Only when the social services open a case it becomes official and the case is then documented in the records. The girl denied that she had been stealing and the Uncle and parents said that they had not been involved. The investigations revealed, however, that Cristina had been caught stealing on nine occasions. There was video-footage of her stealing in supermarkets. In addition, the prosecutor ordered telephone tapping of the father's conversations, which evidenced that the father was yelling at the girl over the phone and accusing her for not stealing enough. The stamps in their passports evidenced how they had been travelling through Europe, the proxy had been used to travel across borders and many times the Uncle had presented it when he collected the girl from of the social services.

In Sweden, the prosecutor pressed charges against the Uncle under the human trafficking law, specifically for the purpose of 'exploitation in forced labour' and 'other activities in a situation that involves distress for the person thus exploited'. He was sentenced at a district court and the court of appeal confirmed the sentence to 4 years of imprisonment on the accounts of human trafficking and 9 occasions of aggravated theft. The judgement stated that he used the girl to steal. The sentence also implied 10 years expulsion from Sweden and Schengen and a fine of 50,000 SEK to be paid to the girl. The father's case was transferred to the Bulgarian authorities and is still pending.

Cristina stayed in Sweden for one year and a half and returned to Bulgaria in 2007, before the trial started. She gave her testimony through a video link. In Bulgaria, she was referred to a child care institution that was considered safe and where she stayed for 7 months. After that, she was identified by the authorities in France and it seems that she has been re-trafficked.

⁵ Name changed.

⁶ The proxy is a notarius publicus and is needed to travel with a child across borders. Parents who are illiterate may sign this document simply by making a cross.

Norway: Children exploited in stealing

Between August and November 2009, two girls and one boy from Lithuania were caught shoplifting on several occasions in the Norwegian city of Bergen. The security guards informed the police who referred the children to the child welfare services. There was initially no apparent connection between the cases, except that all children were from the same Lithuanian town. When the EXIT Team, a local multi-disciplinary group specialised on the investigation of human trafficking cases, reviewed the cases, they started to note some unresolved issues and questions: It was unusual that a 16 year-old child from Lithuania would be travelling in Bergen by him- or herself. It was not clear how the children got to Bergen and how they moved around given that they did not have any money with them. The children carried alarm safe bags specifically prepared for stealing. One girl carried a lot of razor blades, the other girl had stolen trousers for men, and the boy had four GPS devices on him.

The EXIT Team found out that the children had previously been arrested in other places in Norway. The initial checks that the EXIT Team conducted soon turned into extensive human trafficking investigations, the first of their kind in Norway since cases of child trafficking for exploitation in stealing had not been reported before. The police soon identified two suspects. They had taken the ferry from Riga to Stockholm and had driven back and forth between Lithuania and Norway several times during the summer, with different persons as passengers, including some children, who came all from the same area in Lithuania. Many of the passengers in the car had been arrested for shoplifting in different areas of Norway but the drivers had never been investigated.

When the police questioned the children, they learned about their various problems at home such as alcohol abuse of parents and poverty. In the beginning, the children all told identical stories and seemed to be very scared. After a while they gained more confidence in the police officers and started to share more information. The children said they had been aware that they were taken to Norway in order to steal and that they were promised money for it. When they got to Norway, the conditions were very bad and they had to steal first to cover their travel expenses. They were stealing every day from mornings to evenings, for as long as the shops

were open. The two men instructed them what to steal and dropped them in front of the shops. The children went in, stole the goods they were told to take and handed them over to the men, then the group continued to another place. They also had to steal their own food. They mostly slept in the car, sometimes at the house of one of the suspects who lived in Bergen. The suspects threatened to leave them behind if they did not do what they were told.

The bilateral cooperation with the authorities in other countries was critical for the investigations. The Swedish police, for instance, checked the ferries and informed the police in Bergen when one of the suspects got onto the ferry with seven other persons in March of the following year. The Norwegian police decided to not arrest them immediately, but to use surveillance to see what they would be doing in Norway. The surveillance confirmed much of the information that the children had shared before. Both men were charged on human trafficking accounts and were sentenced to 4.5 years of imprisonment. The sentence was confirmed by the appeals court. During the court proceedings, the meaning of 'force' was much debated. In order to make a trafficking case according to the Norwegian law, it has to be evident that the person is not performing the work or services voluntarily or that he or she is not free to leave the situation. All the children involved in the case had 'consented' to be in that situation but the court ruled that they were not in a position to freely get out of it. The appeal court reaffirmed that this constituted a sufficient amount of pressure on the children in order for the case to qualify as child trafficking. They were in Norway without having any money or credit cards, they did not speak Norwegian or English, had no return tickets and had been threatened into this situation.

When a non-national child is arrested in Norway, the embassy of the child's home country is informed. One girl had been arrested before and referred to a child care institution. The same evening, one of the suspects went to the police to collect the child. He stated that he was taking care of her and both the child welfare services and the police agreed to let the girl go with the man. Later on, the girl was caught again and referred to a secret place. The police seized her mobile phone and the institution allows the children to access internet only with restrictions.

The girl wanted to return home and remained in Norway only for the first phase of the investigations. Then IOM and Caritas organised her return. As the investigations proceeded, the police needed to talk to the girl again and went to Lithuania to take her statement. It is important to have a very good and close cooperation with the police in the other countries involved to conduct transnational investigations: the process is tedious and involves a lot of paper work.

Poland: Exploitation of women and children in begging

In the Polish city of Rzeszów, a group of four Roma women and six children were found begging. They were from poor regions in the Ukraine and their transport and involvement in begging was organized by an international criminal group. The women were promised regular and well-paid jobs as sales attendants or providing care for the elderly in Poland. They were told to bring their children with them as it would be easier to cross the border and to obtain a visa for Poland. When the women and children arrived in Poland, they were registered in a hotel where they were under the control of two Ukrainian women who took their passports.

The women were told to beg together with their children. Each woman had to make between 200 and 800 Zloty (approx. 50-200 Euro) per day. If they did not bring that money back, they were beaten severely. They were begging every day and in different places, regardless of the weather conditions, mainly at churches, cemeteries and shopping malls. Every woman had to beg with a child and the organizers preferred women with disabled children. Some of the children were given medication or were beaten to remain calm.

The leaders of the group told the women that they had good connections with the Ukrainian police so that they should not report. In one case, a Ukrainian woman had left her husband and child behind in the Ukraine. In Poland she got pregnant and was threatened that her husband would be informed about her pregnancy. So she gave birth in a Polish hospital and gave the child up for adoption before she went back to the Ukraine.

One of the children was taken away from the mother and given to another woman who had come without a

child. Together, they were taken to the Krakow province. When this woman was stopped and interrogated by the police, she could not provide any documents or information about the child and the police got suspicious about the situation as the child had obviously been exposed to violence. The child was referred to a children's home. At that time, the woman was arrested for petty offence and she was returned to the Ukraine. Only later on, when the police connected this case to the one of the women and children exploited in Rzeszów, the case was investigated as human trafficking. It took several months to identify the real mother of the child who was then returned to Ukraine together with her two children and with the assistance of the consular office.

In this case, the prosecutors gathered evidence against four suspects, citizens of Ukraine and the Republic of Moldova, who were taken to court on human trafficking charges and were sentenced. The group was very well organized. The main organizer, a national of the Republic of Moldova, was living in Ukraine and never came to Poland. He was working through two independent leaders based in Poland and they again had recruited persons to organize the logistics. All organizers were Ukrainian nationals and no Polish citizens were involved in the criminal network.

When the case was investigated, many of the women decided to testify against the organizers, despite the threats. The police departments in six Polish cities coordinated their actions and arrested the beggars and leaders in different locations at the same time, so they did not have a possibility to warn each other. The perpetrators were sentenced to three to four years of imprisonment. A total of 40 victims were involved in this case of whom approximately half were adults and half were children as every woman was begging with a child. Four convictions were done in Poland under Articles 258 and 253 (the old trafficking law), the others were done in Ukraine. The main organizer, i.e. the Moldovan citizen based in Ukraine, is still at large and a European arrest warrant has been issued against him. A major challenge in the bilateral police cooperation was related to the exchange of information.

Some of the women and children who were involved in begging received a temporary residence status in Poland and were offered assistance and the possibility to stay in Poland and get a work permit. Some women and children returned to the Ukraine.

EXPLOITATION OF CHILDREN IN BEGGING AND CRIMINAL ACTIVITIES IN LITHUANIA, NORWAY, POLAND AND SWEDEN

Cases of child exploitation in begging and/or criminal activities have been identified in each of the four participating countries. In Norway, Poland and Sweden, the identified cases have resulted in investigations and prosecutions and the referral of the children to child protection services. The case proceedings have some important factors in common: each was built on a strong collaboration between the police, prosecutors and child protection services, and involved bilateral cooperation with the authorities in the countries of origin of the perpetrators and victims.

The cases that have been investigated are transnational in that the organisers and exploiters as well as the victims move through and between different European countries. Many of the cases that have been investigated involve EU citizens both as perpetrators and victims. Suspicions of child trafficking for exploitation in criminal activities have further been reported with regard to asylum seeking children from third countries. Boys and girls in different age groups have been identified in criminal activities and begging, including street based work such as selling small items or services on the streets. Some of the children were travelling unaccompanied, others were accompanied by their parents or other adults. A selection of case histories is available in the Annex.

Among the accompanied children, some were exploited together with the accompanying adults, others were exploited by them. In some of the cases that were investigated, there was no evidence to suggest that the children were exposed to physical or sexual violence and yet they were exploited. This observation points to the importance of identifying child victims of exploitation and trafficking also among the children who are accompanied by parents or relatives, children who appear to be fine and content, and who do not show any signs of trauma-tisation. Even when a boy or a girl bears no visible signs of physical violence, they may be exposed to other forms of violence such as threats, psychological abuse and coercion. It is suspected, for instance, that very young children used for begging together with their mothers, were given medication to remain calm during the long day

of begging out in the streets. In all cases, the children concerned were at risk of violence and abuse, they were working long hours on the streets and were exposed to harsh weather conditions. The boys and girls were missing out from school, an appropriate and child-friendly living environment, a regular and healthy nutrition, and the possibility to fully develop their potentials and to enjoy their rights.

The children who were exploited in criminal activities were mostly used for stealing. They were travelling in small groups with their exploiters, were dropped before shops and malls and instructed which items they should steal such as cosmetics, telephones, USB sticks, GPS systems and other electronic devices, or the handbags of customers. The exploiters organised the transportation and basic accommodation; they collected the stolen items and shipped them back to their home countries. The children also had to steal food for themselves and the group.

The case histories suggest that children who are exploited in begging or criminal activities get in contact with the authorities repeatedly while they are travelling with their exploiters. This observation indicates that the capacity of authorities to identify and respond to child victims and children at risk and to take effective measures of protection and prevention may still need to be strengthened.

The 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 Lithuania,

for instance, 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. In Poland, there are no specialised child protection services within the broader social service sector and the main responsibility for child protection rests with the family courts. The mandatory involvement of the courts renders the formal decision taking about many child protection matters a lengthy process. In Norway and Sweden, the social services offer prevention and protection programmes but it is challenging to apply these to migrant children and families, especially when they are highly mobile and are not registered within a municipality or the asylum reception system.

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 of 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. The project group also heard about cases in which there were indications of re-trafficking; in some countries, the child protection services suspect that children continue to be involved in similar activities after being returned to their home countries and as adults.

During their travels, the children and the accompanying adults carried valid identity and travel documents as well as forged documents and documents that are considered legal in the child's origin country but the validity of which is hard to confirm in other countries. Third persons who travel with children in order to exploit them often recruit the children from their parents and carry authorisation documents signed by the parents. When the parents are illiterate, they may sign simply by a cross. In some cases, a financial transaction between a parent and the exploiter was involved that might qualify as the 'sale' of a child. While travelling with the exploiters, the children were made to feel dependent as these adults were their only contacts in the foreign country where they did not speak the language, had no money, were without access to legal documents and did thus not know

how to exit the situation. They felt dependent also due to the family expectations placed on them to earn money, or threats against the child and their family back home to behave as told to.

Overall, the case histories presented during the national consultations affirm therefore some common trends and patterns of child trafficking for exploitation in begging and criminal activities. They affirm however also the diversity of the individual situations of the children and the importance of being aware that child trafficking is a constantly changing phenomenon. The national and trans-national responses need to react to and anticipate the changing modus operandi of the perpetrators. They need to be prepared to respond to cases while also strengthening strategies and measures for prevention.

CHILD TRAFFICKING AND RELATED CONCEPTS IN THE NATIONAL LEGISLATION

The criminalisation of child trafficking and legal definitions

Questions:

1 According to international standards, there is no need to prove that 'illicit means' were used to traffic a child. How is this provision reflected in the national legislation?

2 How does the national legislation address the exploitation of children in begging and criminal activities?

Lithuania, Norway, Poland and Sweden have all ratified the UN Trafficking Protocol and the Council of Europe Convention on Action against Trafficking in Human Beings, and have established trafficking in human beings as a criminal offence in the national penal codes. In line with international standards, all countries have introduced special provisions to afford that child trafficking is a crime regardless of the child's consent and when no 'illicit means' such as force or coercion have been used to traffic and exploit the child. As the international definition of trafficking in human beings provides for an open ended list of forms of exploitation, also Lithuania, Poland and Sweden have adopted a wording that allows to consider new and emerging forms of exploitation under the human trafficking law, as long as the 'act' of human trafficking is established.

The Norwegian law on human trafficking makes specific reference to begging to the effect that the exploitation of begging can be considered trafficking in human beings when it constitutes a form of 'forced labour or services'. The Norwegian law has thereby anticipated the approach chosen by the 2011 EU Directive on Trafficking in Human Beings, which emphasises that "the exploitation of begging, including the use of a trafficked dependent person for begging, falls within the scope of the definition of

trafficking in human beings only when all the elements of forced labour or services occur⁷." 'Forced labour and services' are understood according to the definition adopted in the ILO Convention No. 29⁸. Norwegian courts have taken the view that begging can indeed be a form of exploitation under the law on human trafficking. A Swedish case involving a physically handicapped adult man forced to beg in Sweden was discussed as an example of how court rulings in human trafficking cases also means enforcing human rights more generally.

The Lithuanian Criminal Code criminalises 'trafficking in human beings' without making any specific reference to children (Article 147). Child trafficking is addressed separately under Criminal Code Article 157 on the 'Purchase or Sale of a Child', which is sufficiently broad to cover trafficking situations regardless of the involvement of a commercial transaction (purchase or sale). The Lithuanian law, including Article 157, was amended in 2012 to incorporate the broad definition of human trafficking and child trafficking provided for under the EU Directive. The new article refers to the illegal adoption or exploitation of a child for the purpose of slavery or practices similar to slavery, different forms of sexual exploitation, forced labour and services, including in begging, and the commission of criminal offences. Some of the offences that would be considered 'child trafficking' under the international definition, would therefore be classified as the 'purchase or sale of a child' in Lithuania, which may have an impact on conceptual clarity and the comparability of statistics in the region.

The recurring reference to forced labour and services creates a potential conflict with the international

7 The European Parliament and Council of the European Union, 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, Official Journal of the European Union, Brussels, 15 April 2011, par. 11

8 The ILO Forced Labour Convention No. 29 of 1930 defines forced labour 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, paragraph 1). International Labour Office, Convention Concerning Forced or Compulsory Labour, Convention:C029, Geneva, Date of adoption: 28 June 1930, Date of coming into force: 1 May 1932, accessed from: <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C029>.

standard that a child can be a victim of trafficking even in cases where no means of force or coercion have been used against the child. It makes it difficult to identify and prosecute cases in which children are exploited in labour and services, including begging, that do not qualify as 'forced'. This may apply especially to cases in which the exploitation occurs within the family, when the child appears to have consented to his or her involvement in begging and when the child has the age and maturity to be considered 'able' to consent (see the case of Ana, page 41).

The project group discussed court cases where children allegedly exploited in criminal acts had not been considered as victims of trafficking since the adults involving them in crime did not seriously physically harm them or restrict their movement with enough rigidity to convince the court that the child was a victim. This slightly limited view on when a child or young person can be considered to be under someone's control makes prosecution of traffickers difficult, as the project group discussed, since children, including adolescents, can be coerced and controlled in many different ways.

The EU Directive also includes the exploitation of children in criminal activities within the definition of human trafficking (Article 2.3). It clarifies that the "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 financial gain.⁹

Where the exploitation in begging or criminal activities is not explicitly mentioned in the laws that criminalise human trafficking, the prosecutors involved in the project group have used the open ended list of forms of exploitation to prosecute these cases. It offers a possibility to prosecute cases that do not qualify as 'forced labour or services'. The project group further discussed how defining different forms of exploitation as part of criminal activities like human trafficking enables also the provision of social protection to children in extremely vulnerable and exposed life situations. This provides a possibility to offer additional safeguards when the

involvement and exploitation of children in begging or criminal activities is not regulated or considered an offence under the national legislation beyond the context of trafficking.

Only some of the four countries that participated in the CBSS project have introduced separate legislation concerning the involvement of children in begging or criminal activities. The ranges of activities that are subsumed under the term 'begging' differ between countries and the interpretation by individual officials. In Poland, for instance, the selling of flowers on the streets is currently not considered a form of begging, whereas some participants in the project group advocated for a broad understanding of begging to include also playing music or selling small items on the street. How wide the concept of begging should be defined and what impact the prohibition or regulation of these activities may have on children is still an issue of debate with a need for more evidence and clarification.

In Poland, begging is prohibited but there is an exception for persons who have no other means of subsistence. In order to take legal action against begging, the police have to prove that the person has access to other financial resources. In the case of migrant families who live under precarious conditions, there appears to be a general assumption that these persons have no other financial resources and their involvement in begging is therefore not considered illegal. (See the case of begging women in Krakow, page 44).

In Lithuania, Criminal Code Article 159 on the 'Involvement of a Child in a Criminal Act' provides sentences for a "person who, by persuading, requesting, paying, threatening, deceiving or otherwise, involves a child in a criminal act". The article could be used to prosecute cases of child trafficking for exploitation in criminal activities, and children identified in cases tried under this article would be considered 'victims of crime'. There appears to be little practice, however, of using this article to protect children involved in criminal activities from sanctions or prosecution. It is at the discretion of the prosecutor and the judiciary to decide if a child involved in criminal activities is considered a victim, a perpetrator, abettor or complicit. During the visit to Lithuania, the project group met with professionals and officials who expressed the view that the involvement of young people in crimes was their active choice even when adults organised the activities.

9 The European Parliament and Council of the European Union, 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, Official Journal of the European Union, Brussels, 15 April 2011, par. 11.

Article 159 is covered under the extraterritorial legislation of Lithuania and can therefore also be applied for transnational cases. Whether or not the child's involvement in stealing is considered a crime depends then however on the country where the offence took place. While shop-lifting, i.e. stealing goods of minor value from a shop, is considered a criminal offence in some countries, as for instance in Norway, it is an administrative offence in others. These conditions limit the article's application for child trafficking cases significantly, and against this background it is important to clarify which forms of begging or criminal activities the child may be exploited in according to the national laws on human trafficking and the EU Directive.

The age of criminal responsibility

The age as of which children can be held legally accountable differs between the four countries. In Norway and Sweden, the age of criminal responsibility is 15 years. Children who are younger than 15 years cannot be prosecuted or sentenced and the social services are responsible to take action when a younger child has committed a criminal offence. In Lithuania, the general age of criminal liability is 16 years, although children can be held accountable for certain criminal offences as of the age of 14, including for theft and serious offences. The Polish legislation also distinguishes between two age limits. Children have the full criminal responsibility as of 17 years. They are partially criminally liable for serious offences as of the age of 13 and can be referred to social rehabilitation centres¹⁰.

¹⁰ **Lithuania:** Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Second Periodic Reports of States Parties due in 1999, Lithuania, CRC/C/83/Add.14, 15 July 2005, accessed from: [http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b-4043c1256a450044f331/b9c4cd6102802f2fc125707a0037c203/\\$FILE/G0542812.pdf](http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b-4043c1256a450044f331/b9c4cd6102802f2fc125707a0037c203/$FILE/G0542812.pdf), par. 533. **Norway:** Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Periodic Reports of States Parties due in 1998, Norway, CRC/C/70/Add.2, NORWAY, 12 November 1998, par. 365, accessed from: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/38a11e0f72e43672802567f6005ad5f6?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/38a11e0f72e43672802567f6005ad5f6?OpenDocument). Poland: Penal Code of 2 August 1997, Article 10, Paragraph 1: Law of 26 November 1982 on Procedure in Cases Involving Minors. Sweden: Penal Code, Chapter 1, Section 6

The meaning and scope of exploitation

Questions:

- 1 How is the concept of 'exploitation' understood in relation to a child?
- 2 Is the term 'exploitation' understood to refer to particularly violent and abusive acts or can acts that are less violent and abusive also be considered exploitative?
- 3 Can a child consent to being exploited in the view of law enforcement and child protection services?

The UN Convention on the Rights of the Child affords children the right to be protected from all forms of exploitation, including in the context of trafficking and sale (Articles 32–36). These important safeguards are not yet fully reflected in national legislation. While some forms of exploitation, such as sexual exploitation and child labour, and some contexts of exploitation, such as trafficking and sale, are clearly prohibited under national legislation, others remain unaddressed. The broad legal definition of child trafficking in some countries enables the identification and prosecution of a range of forms of child exploitation. The child trafficking law can however not cover all the situations of exploitation that children are exposed to. Overall, the concept of child exploitation is still poorly defined and there is a limited understanding, awareness and consensus on what it means in practice. This is particularly the case when the exploited act in itself is not considered violent or abusive or when the act is one that the child could initiate him- or herself. Reaching a clearer understanding and definition of child exploitation and how to identify it in practice is particularly important for the exploitation of children in begging, street based work, and criminal activities when there is no stand-alone law to address these cases. As discussed above, the laws on human trafficking can usually only be applied to those cases that qualify as 'forced labour or services' and when the act of human trafficking is clearly established. Cases and court decisions that the project group discussed demonstrate that the meaning of

exploitation has not yet been sufficiently clarified in the legal and judicial context. The use of force and coercion is considered a central element of exploitation and a key to the identification of child trafficking cases. It is a challenge to identify a situation of exploitation when a boy or a girl is not subjected to extreme physical force or violence, threats or abuse. Identifying cases of exploitation is even more difficult in transnational cases where there is a significant disparity between the standards of living and social security in the home community and the destination. Being exposed to exploitation does however not necessarily imply that the child is visibly traumatised or living in worse circumstances while being exploited than before. The project group concluded that it is challenging for law enforcement, the judiciary and child protection to apply the 'irrelevance of consent' for cases of child trafficking and exploitation, especially for teenage and adolescent children: there is a risk that the child's agency and consent is in practice held against the child or in favour of the exploiters. In Sweden, the case of Ana (see page 41) has been discussed in precisely these terms. The official identification of child trafficking cases is often connected to a formal process to verify and recognise the child's status as a victim. Service providers routinely report higher numbers of cases than reflected in the official statistics. This may suggest that there are cases of child exploitation that are not officially recognised and addressed. Currently, the policy response to child trafficking is still prioritised over a more inclusive response to all forms and contexts of child exploitation and their effective prevention. Children who are exposed to exploitation that does not qualify as child trafficking risk being marginalised even further and losing out on protection. In order to strengthen responses to child trafficking and exploitation, it will therefore be important to develop more integrated and inclusive approaches. The objective should be to reach all children who are exposed to exploitation and those at risk, regardless of the context in which the exploitation takes place.

IDENTIFICATION OF CHILD VICTIMS AND CHILDREN AT RISK

The challenge of identification

Questions:

- 1 Taking the best interests of the child as a starting point: Why is it important to identify a child who is a victim of trafficking or at risk?
- 2 Do the States' obligations to protect children from exploitation and violence as afforded under the Convention on the Rights of the Child not suffice?
- 3 Is the official identification as a victim of trafficking always in the best interests of the child or can there also be possible negative effects for a child resulting from the official identification?
- 4 Are more children identified as victims of trafficking if the mandate for official identification is shared across agencies, authorities and NGOs?

Considering their obligations under international standards, States generally have a duty to correctly identify child victims of trafficking¹¹. The identification and verification of the child's status is often a long-term process that requires a cooperative effort from service providers, law enforcement and the judiciary. For the

¹¹ See for instance: Council of Europe Convention on Action Against Trafficking in Human Beings, Article 10; United Nations Economic and Social Council, Recommended Principles and Guidelines on Human Rights and Human Trafficking, Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council, E/2002/68/Add.1, 20 May 2002, accessed from: <[http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.2002.68.Add.1.En?Opendocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.2002.68.Add.1.En?Opendocument)>. Guideline 2, United Nations Children's Fund, Guidelines on the Protection of Child Victims of Trafficking, Provisional Version, September 2006, accessed from: <http://www.unicef.org/ceecis/0610-Unicef_Victims_Guidelines_en.pdf>, p. 14.

authorities and service providers involved, it is critical to understand the details about a child's situation, aspirations and needs, and to hear the child's statement and views. The official verification of a child's status as a victim of trafficking shall however not be considered a precondition for granting access to assistance and support but can also be seen as a possible outcome and a consequence of these measures¹².

The identification of a child as a victim of trafficking may be critical for the delivery of appropriate support and adequate protection. To identify a child as a victim is an important entry point for agencies and professionals to assist the child in regaining control of her/his life and cognitive abilities. Individual case and needs assessments are important tools to guide this process, as the cases are too diverse to respond with a single assistance scheme.

The project group discussed different case scenarios. In Norway, the children exploited in stealing were identified as victims of trafficking, received assistance in Norway and had the choice of staying in Norway or returning to their home countries. The children who chose to return continued receiving support in their home countries. In Sweden, a girl was identified as a victim of trafficking and some of the perpetrators were sentenced by court, and yet the girl received only short-term assistance and was said to have been re-trafficked after returning to her home country (see case histories in the Annex). In other cases, where there are suspicions that children may be exposed to exploitation and possibly trafficking, the services offered do not always succeed to protect the children in a sustainable way, as is the case with the North African boys in the city centre of Oslo.

The case histories reaffirm that a child should not be afforded special protection and assistance primarily on the grounds of being a victim of trafficking, but on the grounds of being a child. Beyond the obligation to identify child victims of trafficking, the Convention on the Rights

¹² Council of Europe Convention on Action Against Trafficking in Human Beings, Articles 10 and 13.

of the Child commits States to identify and protect all child victims of exploitation and children at risk (Article 39). All processes to assess the case histories of children for possible indications of child trafficking should therefore likewise seek to identify if other acts of violence, exploitation and abuse occurred and respond in an appropriate way, including by averting harm in the future.

There are many reasons why it can be difficult to identify child victims or why children may not want to be identified by the authorities. The project group emphasised that the authorities responsible for identification need to be aware of the different types of exploitation that children are exposed to and that many may be considered as forms of trafficking. As the project group related, the children can have a strong relation or attachment to the exploiters, they may not trust the authorities, and they can feel guilty or ashamed of what happened and might be afraid of the legal consequences. A child may have been told that the perpetrator cooperates with the police and may therefore have doubts that the exploiter will be prosecuted, or the child may have been threatened not to collaborate with the authorities. It is therefore of utmost importance to provide the child with information, care and attention, to build trust, and to provide a safe environment.

Considering that perpetrators and victims move through and within European countries, access to case information is essential for the authorities to identify patterns of exploitation. In Norway, Poland and Sweden, child trafficking cases were initially identified when the prosecutors started to collect the case documentation from the police throughout districts and regions. The prosecutors thereby gathered evidence to show that these are not just individual cases but that there is a pattern and an organisation behind them. In Sweden, the prosecutors noted that it is difficult to unveil child trafficking cases in which young children are used for stealing or shoplifting. Under the age of criminal responsibility, i.e. 15 years old, the police refer children to the social services and it is then unlikely that these cases get to the notion of the prosecutors. In the case of begging, which itself is not illegal in Sweden, it is even more challenging to identify patterns of exploitation involving the same persons in different parts of the country. It is important to monitor the safety and well-being of children more closely especially when they are mobile and moving through the country and region.

The discussions in the project group revealed that the various agencies involved in the identification of child victims of trafficking work with different interpretations of the concept and definition of child trafficking. When assessing the case of a potential child victim of trafficking, service providers and law enforcement may come to differing conclusions, which is reflected also in their different statistics. This was reported specifically in Lithuania, where the figures reported by Caritas are higher than those recorded by the authorities. In Sweden, the court case related to the involvement of the girl Ana in begging (see page 41) revealed that the interpretation of a case can differ also between different public institutions, as for instance the prosecutor considered Ana a victim of trafficking but the judge did not.

Considering however, that service providers and law enforcement agencies each need to address child trafficking within their own specific mandate, the discrepancies do not necessarily constitute a predicament if understood and managed well. It is important to value the diversity of approaches and strategies for their consolidation into a coordinated multi-stakeholder response that embraces all the relevant sectors such as child protection, law enforcement and prosecution, for the best interests of the child.

The project group discussions affirmed that it is a significant challenge to bring information from law enforcement and social services together at the local level and to connect the local authorities horizontally across regions. As a central authority, the Child Protection and Adoption Service in Lithuania, for instance, is tracking and monitoring the situation of vulnerable children and families throughout the country, even when they move, and helps to prevent that the case information gets lost in the decentralised system. This experience from Lithuania and the successes resulting from the initiatives of individual prosecutors in Norway, Poland and Sweden to compare case files across regions might be revisited with a view to developing reliable and sustainable structures for the identification and monitoring of cases. These experiences also suggest that the identification of child victims may be enhanced when organised more systematically. Working more systematically means to overcome the fragmentation of mandates horizontally between the different agencies involved and vertically between central and local levels of the public administrations.

A broader approach to identification: Working with the concept of a 'child victim of crime'

In addition to the challenges of identifying exploitation, the project group discussed the challenges of identifying children as 'victims' or 'at risk'. The group discussions suggested that there are still many stereotypes that guide the identification of child victims of trafficking. Child victims are particularly likely to be identified among non-national children, especially unaccompanied children from countries and regions that are considered main origins of human trafficking, and from among ethnic groups that are considered to be particularly marginalised and excluded. There appears to be a prevalent perception that child victims of trafficking have experienced extreme violence and behave accordingly in that they are scared and visibly traumatised. When a boy or a girl acts with self-confidence and appears to be healthy, able and content, service providers, law enforcement and the judiciary may be reluctant to identify the child as a victim. What exactly constitutes 'force' or 'control' over a child in the sense of the national laws that criminalise human trafficking has not yet been clearly defined. It remains a challenge to promote a more differentiated understanding of the more subtle forms of control, coercion and force that children may be exposed to. In addition, age, gender and ability as well as forms and sites of exploitation all play a role for the identification of cases.

The identification of children as 'victims' or 'perpetrators' of crime remains also poorly defined and appears to be guided by similar stereotype perceptions. Children may find themselves in the roles of 'victims' or 'perpetrators' at the same time or consecutively and may perceive their roles differently from the assessments that law enforcement or child protection authorities make. The same applies to parents who travel with their children and who jointly engage in begging. There is yet a need to debate the indicators and consequences of this type of categorisation on children in more detail and to establish clear guidelines for the identification of children as 'victims of crime' and the related safeguards, giving due account to the diversity of child trafficking and the victims and perpetrators involved. Considering the term 'victim' primarily as a legal con-

cept helps understanding that the victim status does not primarily qualify the person as such but assigns to him or her certain rights and entitlements. As a legal concept, the term 'victim of crime' is therefore inherently empowering and restorative. It affords important safeguards to children with regard to assistance and support services, the regularization of immigration status, witness protection and legal assistance, and the rights of the victim in legal and administrative proceedings, including the right to act as plaintiff at court and to seek redress and compensation. International standards afford that these safeguards shall be applied to any child victim of exploitation, regardless of whether the case qualifies as child trafficking or not¹³. It is important to continue training, awareness raising and monitoring as to how the status of child victims of crime is applied and respected in practice.

One of the important safeguards that the concept holds for children is the premise that the child's role in the offence or his or her consent to it shall be considered irrelevant. Case histories reveal that children do at times consent to entering or remaining in situations of exploitation, for many different reasons. This has to be understood in the light of the child's living conditions and background and the choices and alternatives that he or she has access to. At the core of the trafficking crime is precisely that it weakens or eradicates the child's capacity to make informed choices.

The international definition of child trafficking stipulates that, from a legal perspective, a child is not 'capable' of consenting to his or her own exploitation. A child's consent to getting involved in illegal or exploitative activities cannot be held against the child or in favour of the defendant in a court proceeding. The child's limited 'capacity' to consent and the 'irrelevance' of the child's of consent therefore need to be understood and applied

¹³ See for instance the UNICEF Guidelines on the Protection of Child Victims of Trafficking and the UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime that provide an overview of the rights of child victims of crime, and child victims of trafficking specifically, as afforded under international standards. United Nations Children's Fund, Guidelines on the Protection of Child Victims of Trafficking, Provisional Version, September 2006, accessed from: http://www.unicef.org/ceecis/0610-Unicef_Victims_Guidelines_en.pdf. United Nations Economic and Social Council, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, Economic and Social Council Resolution 2005/20, 22 July 2005, accessed from: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=468922c92>. See further: United Nations Children's Fund Innocenti Research Centre, Child Trafficking in the Nordic Countries, Rethinking Strategies and Approaches, A Technical Report, Florence, 2012, accessed from: http://www.unicef-irc.org/publications/pdf/nordic_techreport2.pdf, p. 72.

primarily for the legal and judicial context. As such, this principle is central to a child rights-based approach. It recognizes the evolving capacities and agency of the child while stipulating at the same time that a child shall not be held accountable for acts that he or she committed as a result of being a victim of crime¹⁴. The case histories in the Annex present an account of how children 'consent' at different stages of the trafficking process in light of their situations, family expectations and pressure and a general lack of alternatives and support.

Complementing the child-specific standards of the UN and the Council of Europe, the EU adopted in May 2012 a legislative package for strengthening the rights of victims of crime that can help guiding more integrated responses¹⁵. Working with these regional and international standards presents an opportunity for governments to review their national laws, policies and practice for child victims of crime in a comprehensive way and to promote their application as part of consolidated and rights-based strategies.

14 Reference and discussion of the non-punishment clause: United Nations Economic and Social Council, Recommended Principles and Guidelines on Human Rights and Human Trafficking, Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council, E/2002/68/Add.1, 20 May 2002, accessed from: [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.2002.68.Add.1.En?Opendocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.2002.68.Add.1.En?Opendocument), p. 3. United Nations Children's Fund, Guidelines on the Protection of Child Victims of Trafficking, Provisional Version, September 2006, accessed from: http://www.unicef.org/ceecis/0610-Unicef_Victims_Guidelines_en.pdf, p. 20. The European Parliament and Council of the European Union, 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, Official Journal of the European Union, Brussels, 15 April 2011, Article 8, Council of Europe Convention on Action Against Trafficking in Human Beings, Article 26.

15 See: United Nations Economic and Social Council, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, Economic and Social Council Resolution 2005/20, 22 July 2005, available at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=468922c92>, Council of Europe Committee of Ministers, Guidelines of the Committee of Ministers of the Council of Europe on Child Friendly Justice, Adopted by the Committee of Ministers on 17 November 2010, at the 1098th meeting of the Ministers' Deputies, accessed from: <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1705197&Site=C-M&BackColorInternet=C3C3C3&BackColorIntranet=E8B021&BackColorLogged=F5D383>, The European Parliament and the Council of the European Union, Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, 2011/0129 (COD), PE-CONS 37/12, Brussels, 20 September 2012, accessed from: http://ec.europa.eu/justice/fundamental-rights/files/victims_directive_en.pdf.

Cooperation between the police and the private sector for the identification of child trafficking cases

Questions:

- 1 Can the private sector be involved in the identification of child victims of trafficking? If so, how and to which effect?

In March 2012, the Østfold Police District in the South-Eastern part of Norway launched an initiative to strengthen the collaboration and information exchange between the police, shop owners and security firms to address the involvement of children in shoplifting and stealing. When a child is caught shoplifting or stealing, the shops usually call the security service as the police are unlikely to send a patrol for these kinds of offences. The shop then fills in a police report form to provide information on what was stolen and who was involved. In the Østfold District, the police wanted to gather more information, including with regard to the person who comes to pick up the child, and compare the cases systematically.

The objective of this collaboration is to start building a national database and to monitor the cases more closely. Information about the children caught shoplifting will not be entered into the intelligence system, but the personal data of the adults who come to pick up the children will. This kind of information might be of interest for other districts as well. If the police are able to identify that a child has been apprehended in other places before, or that the same adult has picked up a child in different locations, then there will be sufficient evidence to launch an operation.

Since this cooperation was launched, security staff who are guarding the shops in the district are more actively looking for information when a child is caught shoplifting. They take the names of the children and observe the child's contacts outside the shop. In addition to personal data, other information is recorded, such as license plates and footage from security cameras. The data

protection regulations for this type of cooperation are sensitive and need yet to be clarified in more detail. The project is implemented as part of the general police work in the Østfold Police District's unit on organised crime. It did not require any additional resources, but having access to the tools of the organised crime unit is a critical asset. It has thus far contributed to raising awareness among shop attendants and security services, to sensitise them to the possibility that children who are caught shoplifting or stealing might be victims of crime, and to motivate them to collaborate more closely with the police.

Identification through low-threshold services: The role of social outreach services

The social outreach services 'Uteseksjonen' operate as a municipal service in Oslo targeting children and young adults at risk, specifically in the open drug scene. The outreach workers patrol the streets and open drug scene in teams of two social workers 2-3 times per day. By continuously being out on the streets, they have gained a differentiated understanding of the open drug scene. They monitor the situation, establish contact with new persons that enter the scene, assess their situations and needs, offer services and follow-up on existing contacts. The outreach workers primarily seek to get to know the children and spend leisure time together, seek to build trust and to understand their situations. Uteseksjonen also raise awareness among the children that there may be different ways of life for them. They aim to create opportunities for the children to get away from risky environments on the street, with a crime- and drug-prevention perspective. The services are offered at a very low threshold.

During 2011, Uteseksjonen registered an average of 8 to 11 children every month. In the first half of 2012, the numbers went down to 4-5 children per month. Uteseksjonen has established a good and close cooperation with the police and the child welfare services in Oslo, which are both important for the reporting of cases, referral and follow-up.

Identifying possible involvement of trafficked children in the sale of drugs

Questions:

- 1 Are children who are involved in the sale of drugs also identified as victims of trafficking?

In Oslo city centre, the Uteseksjonen outreach workers meet many boys from North African countries who are involved in the open drug scene and considered to be at a high risk of exploitation. They are mostly between 15 and 18 years old. Many of them have been travelling through Europe for an extended period of time before coming to Oslo. They speak a few European languages, mainly French, Italian or Spanish. They are not accompanied by adults although, when talking to the boys, the outreach workers have repeatedly made the observation that adults walk up and interfere in their conversations, possibly trying to obstruct their efforts to get in contact with the boys. The outreach workers suspect that these adults might organise the boys' involvement in the drug trade and exploit them.

In Stockholm, the social outreach services of the Maria Outreach Unit have made similar observations. When trying to talk to the boys at risk in the streets and public places, they meet adults who are staying close to the boys and are often fluent in English. While the adults talk to the outreach workers, the children take their belongings and walk away. There are suspicions that these adults, sometimes also children or young adults, are controlling, instructing or using the children on the streets, although evidence of human trafficking has thus far not yet been officially confirmed.

The North African boys in Oslo usually do not carry identity papers and some have travelled with forged passports. Although some of the boys have applied for asylum, this appears not to be the primary reason why they came to Norway. There are boys who lived at asylum reception centres for a while and then left without informing the authorities of their whereabouts.

It is difficult to understand what happens to these children and if some of them might be living in a situation of exploitation. Many of the boys seem to make money through stealing and the selling of drugs, some may be exposed to sexual exploitation in prostitution, suspected of selling sexual services to men. Some of the boys might be offering sexual services in exchange for a place to stay.

The boys use the internet a lot and several of them have open profiles on Facebook so the social workers can trace them to some extent. The outreach workers suspect that some of the boys were recruited at asylum reception centres. Others get involved in drug selling very soon after their arrival in Oslo, which suggests that there are organisers who provide the information and drugs to the boys. The boys themselves do not appear to consider themselves as victims, although the outreach workers have had cases in which the boys had been threatened severely not to cooperate with the authorities.

Being out in the streets every day, social outreach services are in a key position to identify children at risk and victims of trafficking. They have a limited mandate when it comes to providing direct assistance to children, but due to their close cooperation with other agencies, the social outreach services play a key role in the referral of children. If they consider a child to be at risk of trafficking or other forms of violence, they file a report to the child welfare services that are then responsible to follow-up. The police have also an important role in the referral system, because they have the mandate to monitor the situation of the children more closely. The outreach services are well placed to gain a comprehensive understanding of a child's situation and they can complement the information that other authorities have access to. In Norway, the social outreach services of Uteseksjonen are represented in various cooperation groups, with the child welfare services, the police and the Norwegian Immigration Directorate. The cooperation is considered strong at the policy level, and can be strengthened further also at the level of the individual case management.

Collaboration between emergency social services and the police for the identification of child trafficking cases in Stockholm

The Stockholm Emergency Child Protection Services operates 24/7, providing social services in emergency situations outside of regular office hours. They have established a good cooperation with the social outreach services. Both services are administratively located under the Stockholm City Council. The social outreach workers are trained social workers who are operating in the city centre of Stockholm, especially in environments that are dangerous and risky for children and young people. They work with children and young adults up to the age of 20. Whereas the social outreach services work exclusively on the streets, the emergency social services are responsible for all children in the 14 boroughs of Stockholm when the local offices of the social services are closed. The emergency social services do the fast investigations and then hand the cases over to the regular offices in the boroughs. The office handles cases of persons of all ages, except persons who are in elderly care.

The emergency social services are strongly involved in child protection cases, as well as cases of family violence, drug and alcohol abuse, and psychological support in crisis situations. They are also responsible for the 'non-Stockholm children', including during the regular office hours of the main social services. These cases include children who are registered in other municipalities of Sweden but are found to be at risk in Stockholm, as well as migrant and asylum seeking children in Stockholm. In 2010, the social emergency services initiated a project on human trafficking that comprised special measures for the identification, case assessment, social investigation, cooperation with home countries and return.

The emergency social services and the social outreach workers have developed a working definition for the identification of child victims of trafficking, according to which "every child who is transported for reasons of exploitation is considered a victim of trafficking". Using this broad definition, the social services work with the

assumption that every child who is involved in crime is a potential victim.

A lesson learned from the work with child trafficking cases over the past years confirms that it was important initially to attach priority and special attention to child trafficking in order to raise the awareness of the social workers and strengthen their capacity to address these cases. The more the social workers became aware of child trafficking, the more routine and experience they gained in responding to the cases and in cooperating with the police. The cooperation between the police and the social workers was strengthened through regular meetings with the border police, social services and social outreach services and specifically by placing social workers directly within police stations in selected boroughs of Stockholm. These social workers assist children who are considered to be in conflict with the law, victims of crime or at risk. With the growing awareness, there was also a growing understanding of the complexity of child trafficking and the social services were increasingly struggling with dilemmas in safeguarding the rights and best interests of the child. Against this background, there is now an understanding that it will be important to stronger mainstream measures to identify and respond to child trafficking cases into the general child protection work.

Institutionalised cooperation and coordination mechanisms

Questions:

- 1 Does cooperation between law enforcement and child welfare/child protection services in cases of child trafficking help to ensure that children are better protected and that they receive more adequate services?
- 2 Does cooperation between law enforcement and child welfare/child protection services contribute to more successful prosecutions?
- 3 Does centralised expertise on child trafficking mean that children receive more adequate services and protection and that more perpetrators are prosecuted or are local level initiatives more effective?

The cooperation between child protection services and law enforcement is critical for protecting children who may be victims of trafficking and for prosecuting perpetrators. The successful prosecutions in Norway show that adequate protection enables children to feel safe when testifying and to make witness statements that hold up in court. They demonstrate further how the protection of child victims is enabled through the involvement of the prosecution and police when they succeed to diminish the threats from the perpetrators. This is one of the central themes running throughout the CBSS project documented in this report.

The discussions in the project group revealed that cooperation mechanisms that are organised and institutionalised at the local level and where the participants know and trust each other are particularly important and have proven to work successfully. It is worthwhile exploring ways of expanding the cooperation mechanisms to include different actors, including the private sector. This chapter presents some of the initiatives and mechanisms for cooperation that have proven to work effectively in the countries that participated in this project.

Cooperation and the exchange of information and expertise are needed also within each sector, i.e. child protection, law enforcement and prosecution, to ensure comparable quality standards when child trafficking cases are addressed throughout the country. This chapter presents therefore also examples of how centralised expertise has been institutionalised to strengthen the cooperation between the central and local levels of the administration in various countries, with examples from child protection and prosecution services.

Centralised expertise to address child trafficking: Country examples

The discussion in the project group revealed that it is often particularly challenging for small municipalities to handle child trafficking cases, especially cases where the exploited act itself may be of a kind that children or young people initiate, such as pick-pocketing, shoplifting or thefts. To investigate these cases, a lot of resources are required not only for the police but also for child protection services. Often there is limited experience with handling complex cases, especially when they are transnational and there is a need to interact with authorities in the child's home country or in third countries. The project group members shared their experience of providing technical expertise, monitoring and supervision from the central level to regional and local authorities, i.e. vertically within the specific sectors such as child protection and prosecution services.

The International Chambers of the Swedish Prosecution Service

In Sweden, the prosecution service has set up international units in three cities. These units are specialised on international and organised crime and support local prosecution offices in their bilateral contacts and proceedings. The transnational cases require a way of working that the district courts and prosecutors are not necessarily used to. There may be limited experience in seeking mutual legal assistance, for instance, or with interviewing child victims. It takes additional effort to manage these cases and they usually take a lot of resources on small courts and the prosecutors. Swedish legislation on human trafficking has undergone several revisions and changes in the past years so that legal

expertise is required in order to build solid cases that will convince the courts. This is particularly the case when the child is considered to be exploited in begging and in criminality. The international units of the prosecution services integrate the legal and procedural expertise with the provision of technical assistance for local prosecution offices.

A supervisory and monitoring function within the General Prosecution Service in Poland

In Poland, the General Prosecution Service has introduced a specialised function in the Department for Organised Crime and Corruption that provides central expertise on the prosecution of human trafficking cases and monitors the investigations and prosecutions throughout the country. The supervisory function of the Department for Organised Crime and Corruption comprises the collection and analysis of data and information related to organised crime, the coordination of the various bodies involved in addressing organised crime and corruption, including human trafficking; monitoring the activities of the prosecutors in Poland at all levels; and international cooperation on these type of crimes. One prosecutor in the Department is responsible specifically for monitoring and coordinating the investigation and prosecution of human trafficking cases. The prosecutor analyses case records and files, monitors and coordinates human trafficking inquiries, and produces analytical reports and opinions. This includes case reviews to understand and monitor the backgrounds, forms and contexts of the crime, modus operandi, trends and developments. In addition, the prosecutor offers training for prosecutors and judges on human trafficking cases, including specifically child trafficking cases.

At the level of the Appellate Prosecutors' Offices and in some of the Regional Prosecutors' Offices, special prosecutors have been appointed to coordinate and monitor how the local prosecutors' offices in their jurisdiction investigate and prosecute human trafficking cases. The tasks of these special prosecutors are the same as of those of the coordinator in the General Prosecution Office. They execute the duties at the regional and local levels and report on their activities. These reports are included in the annual reports issued by the Department for Organised Crime and Corruption in the General Prosecutor's Office.

The Prosecutor General's Office has obliged each prosecutor's office to share data on the investigations of human trafficking cases, including data on the initiation and subject of the investigations, a description of the offences and the procedural measures taken, as well as a list of victims with personal data, nationality, age and sex. The personal data are subject to data protection measures to ensure the confidentiality for witnesses. In addition, data are collected on the suspects and the outcomes of court proceedings, including victim compensation and the confiscation of assets. The centralised supervisory and monitoring function in the General Prosecutor's Office provides an important asset for local and regional prosecutors and contributes to ensuring a more consistent application of the law throughout the country.

The Child Protection and Adoption Service in Lithuania

In Lithuania, the central Child Protection and Adoption Service is a unique model for strengthening the cooperation and information exchange on child protection cases within the country and across borders. Located within the Ministry of Social Security and Labour, it is the central authority for all child protection matters within Lithuania and in transnational cases. Within Lithuania, the authority acts as a central information, coordination and monitoring body. It communicates information on new laws and procedures in the area of child protection and seeks to strengthen their application in the country.

In transnational cases, the central authority acts as the primary contact point for child protection authorities from abroad and coordinates all activities at the national level, including the engagement of the local child protection services in Lithuania. The central authority provides information on individual cases upon requests from authorities abroad, organises the return of children to Lithuania and assists in cases of children who are under the supervision of social services abroad or who have committed a crime abroad. It is therefore a key actor for the transnational referral of children, including child victims of trafficking and children at risk, and oversees all actions from the initial assessments through to return and the identification and implementation of a durable solution.

The Child Protection and Adoption Service keeps a central registry of families at risk in Lithuania. Data are re-

ceived from social services throughout the country and from abroad and are fed into the national registry. This database is an important tool to keep track of families and children who move within the country, to monitor children's situation in families where the child might be at risk, and to manage information received from abroad. When the primary responsibility for providing services and ensuring an effective child protection system is with the local municipalities, this kind of data collection, information management and monitoring function is critical. The central registry in Lithuania offers an innovative example of how the situation at the local level can be monitored more closely, both with regard to the children and families at risk and the social services provided by the local authorities.

These models from Lithuania, Poland and Sweden may be of interest across agencies and countries. Where special expertise has not yet been institutionalised at the central level, it might be made available through a specialised institution; as an alternative, it could be attached to existing bodies, as for instance the municipal authorities in the capital, where it is easily accessible for local authorities throughout the country.

Cooperation and coordination mechanisms at the local levels

Cooperation and coordination mechanisms are of central importance not only at the policy making level but also locally where authorities and service providers are confronted with concrete cases. At the local level, officials and professionals involved in these mechanisms get to know and trust each other and know whom to contact in a specific situation.

Building regional networks to address child trafficking cases in Poland

In Poland, a working group was established within the Ministry of Interior and Administration that meets regularly to discuss the specifics of child trafficking cases. The group consists of representatives of ministries, police, prosecution, service providers and NGOs. It initiated a pilot programme for child victims and witnesses of trafficking in 2009. The pilot programme was launched in four regions ('voivodships'). It established a network of safe shelters for child victims of trafficking and provides training for shelter personnel, social services and law enforcement officers in the

voivodship, develop guidelines, including indicators for the identification of child victims, and train legal representative for unaccompanied children. The programme created regional networks for information exchange on how to strengthen the support for child victims and a coordination mechanism for preventive and awareness raising activities. Each regional network operates with the participation of officers from the police and the Border Guards, a labour inspector, a representative of the social policy unit, NGOs, and the prosecutor joins upon invitation if required. The network offers special training at the local level where it is often easier to find fresh ideas and solutions and to organise concrete action to address child trafficking.

The role of the National Task Force in strengthening inter-agency cooperation on human trafficking cases in Sweden

The National Task Force against Trafficking in Human Beings was launched in January 2009 as a part of the Swedish Action Plan against Prostitution and Human Trafficking for Sexual Purposes. It brings together the different authorities and departments involved in addressing human trafficking cases for sexual purposes: the National Police Board, i.e. the National Rapporteur on trafficking in human beings; the National Criminal Police; the specialised police unit in Stockholm dealing with human trafficking for the purpose of sexual exploitation, police units in Gothenburg and Malmö; the Prosecutors Office International Chambers; the Prosecution Development Centre in Gothenburg; the Swedish Migration Board in Stockholm and Gothenburg; the social services in Stockholm, Gothenburg and Malmö. The Task Force offers the possibility to put together flexible and adjustable teams, depending on the needs in a specific case or thematic area. The Task Force struggles with its mandate which is limited to prostitution and trafficking for sexual exploitation, as provided for under the national action plan of Sweden. It has the possibility to involve new members and to connect professionals and offices but officially they cannot work on other forms of exploitation. It will be important to expand its thematic focus in the future.

One of the areas where the Task Force is strongly involved is the promotion of the cooperation between law enforcement and service providers. Experience from other countries has proven it effective to locate social welfare officers within specialised police units in order to strengthen the service delivery and assistance for victims of crime and to reduce delays in providing assistance. A strong cooperation between the authorities also enables a more holistic approach that combines the perspectives of criminal justice and victim support and facilitates information exchange. This model works well in Stockholm, where the social welfare officer working with the police unit against human trafficking for sexual purposes coordinates all activities related to care and assistance for the victims. The Swedish project participants saw room for having a social welfare officer embedded also in the police unit working against human trafficking for other purposes.

Police work with young people at risk in Lithuania

In Lithuania, the police mandate includes specific prevention measures. The police keep files of 'young people at risk' who were previously involved in criminal acts or are considered to be at risk of getting involved in crime. The police in the city of Tauragė for instance hold a total of 95 such files in a district of approximately 50,000 inhabitants that is strongly characterised by the social and economic marginalisation of children and families. Many of the children at risk are from families that are considered 'socially at risk', and 40% of the cases concern children living at children's homes. There is a special youth unit at the police that is tasked to monitor these cases and to work with preventive programmes. There is a perception that the preventive work of the police and proactive investigations could be strengthened even more, including in cooperation with the social services and specifically with regard to preventing child trafficking and the exploitation of children in criminal activities.

Police outreach work and inter-agency cooperation for crime prevention in Oslo

In Oslo, the police conduct outreach and crime prevention work in close cooperation with a local network of contacts, including the child welfare services and schools. The police outreach unit operates currently

with two teams of outreach police officers. They report all cases of concern that involve children to the child welfare services. In the cases of Norwegian children, the police establish the child's identity and contact the parents, which the social outreach services of Uteseksjonen for instance are not authorised to do. In the cases of non-national children, it is not always clear who has to be informed when a girl or a boy has no parents in Norway. In these cases, the police report to the child welfare services as well and are not obliged to inform the immigration authorities.

The outreach police unit has entered in a cooperation agreement with the municipality of Oslo to reduce the involvement of children and young adults up to 23 years of age in criminal activities. This SaLTø Programme ('Together for a safer city') works specifically with young perpetrators who commit three or more crimes, with a focus on drug related crimes and acts of violence. The programme convenes monthly meetings between the different agencies involved to discuss the cases of specific children or young persons. A follow-up team offers mentoring and a longer-term programme targeted to the individual situation. They seek to build and mobilise resources around the child or young person and offer non-violence programmes.

The statistics on youth crime in Oslo show a declining trend, which might indicate the positive impact of the outreach and crime prevention work and the inter-agency collaboration in this area. The situation of Norwegian nationals and residents who are involved in drug dealing is thus far addressed primarily from a crime prevention and child protection approach. The situation of these children is not considered or analysed as human trafficking. With regard to non-national children, especially the North-African boys involved in drug selling in the city centre of Oslo, the possibility that they might be victims of trafficking starts being debated. As the crime prevention approach is considered an example of good practice, it will be important to scale it up to include specifically non-national children involved in criminal activities and non-nationals at risk.

Coordination unit for children at risk in the Oslo City Centre

In the municipality of Oslo,

a coordination unit was established to strengthen the inter-agency cooperation for the protection of victims of trafficking and potential victims. The unit coordinates the work of the relevant municipal departments of Oslo, the Norwegian Immigration Directorate (UDI), the police and other bodies involved in the identification, referral and assistance of victims of trafficking. The unit has thus far not focused on prosecution but worked primarily to ensure that victims and potential victims are referred to appropriate assistance and support services.

In addition to working on individual cases and procedures, the unit has also identified and discussed concrete challenges that officials and professionals are confronted with when seeking to assist victims of trafficking, at the local and national levels. These observations and recommendations have been brought to the attention of policy makers and have contributed to improving the practice over the past years.

Inter-agency cooperation for the investigation of human trafficking cases: The EXIT Project in Bergen

In Bergen,

the second largest city in Norway, the EXIT Project was initiated in 2009 when the purchase of sexual services was criminalised in Norway. The purpose of the project is to investigate cases of human trafficking, pimping and purchase of sexual services, and forced labour in Bergen, and to offer investigation training. The project team is comprised of two police investigators, two prosecutors, and one consultant. For the team, it has been important that the investigators and the prosecutors are based in the same office venue and that there was a close collaboration with local partners, especially the social services.

The EXIT Project receives information on potential cases from the police and the general public. On the basis of this information, a project plan is prepared to guide the data collection, mapping and analysis of the case, with the objective to gather initial evidence, understand which persons are involved and who they are. This information is evaluated to develop a hypothesis and, if sufficient

evidence is available, an investigation is launched. The EXIT Project prioritises cases that involve children under 18 years of age as well as cases that are expected to have a preventive effect in the future. The successful investigation and prosecution of Lithuanian citizens who exploited children in stealing, for instance, helped reducing this form of exploitation in Bergen, according to police assessments and data. It remains an objective to achieve a similar longer-term impact also for other forms of child trafficking. EXIT is also engaged in knowledge exchange within Norway and with other countries and gives lectures and training workshops to inform about their work.

The trafficking investigations are very resource intensive. The investigations are partially carried out abroad and require that the project team members travel to other countries to take statements and undertake warrants. It is a challenge to balance the interests of the police to keep the child in Norway so that he or she can give a statement and participate in the criminal proceeding with the best interests of the child and the child's right to return to his or her home country.

Norway has a comparatively high number of investigations and prosecutions related to child trafficking cases. These cases are concentrated mainly to the police districts of Bergen and Oslo, where institutionalised inter-agency operational teams are in place to investigate human trafficking cases. The project group discussed that this pattern might reflect the dedication of the police in the two cities as well as a more effective, coordinated response and higher awareness among all officials and service providers involved in Bergen and Oslo. Some of the police districts in Norway have set up institutionalised inter-agency operational teams ('TOT') to coordinate the response measures when a person is identified as a potential victim of trafficking. The TOT is part of the national referral mechanism and is comprised of representatives of the police, prosecution services, social services, shelters for adults, and health care services. For potential child trafficking cases, the child welfare services participate as well. All TOT coordinators in Norway are represented in the national coordination unit against human trafficking (KOM).

Support and assistance for child victims and children at risk

Questions:

1 Do child victims of trafficking have better access to services than children at risk in general?

2 Is the child's legal status – country national, EU citizen, asylum seeking child, undocumented child migrant – determining the kind of protection and support offered if the child is considered to be at risk?

Services for child victims of trafficking and children at risk are provided by the social services, child protection services, the asylum reception system as well as private partners. Non-state actors have a particularly important role in providing services for victims of trafficking in Lithuania and Poland, such as Caritas, the Nobody's Children Foundation and La Strada. They receive funding from the state for their engagement and contribute also with their own funds, especially for those children who are not officially recognised as victims of trafficking.

The type of referral and services available for different 'categories' of children differs from country to country and depends on many different aspects of the child's situation and background. Whereas third country nationals are primarily referred to the asylum reception system, nationals and EU citizens are referred to the local child protection services. Once a child has been officially identified as a victim of trafficking, there are special assistance measures available for this group, yet the project group noted that these are mainly tailored to girls who have been exposed to sexual exploitation: limited structures are available for boys. Stereotype perceptions of who is a victim, as discussed above, also may have an influence on the identification and referral of children to support and assistance.

Overall, the project group observed that the 'categorisation' of a child according to the child's status or the specific challenges that the child has been facing still plays an important role for accessing support and assistance services. In the case of non-national children, the fragmented mandates of the authorities create additional challenges of clarifying institutional responsibilities for the children and holding the authorities accountable. The child has to fit into the existing structures and systems and there is only a limited scope of action for child protection professionals and others to adapt the structures and systems to the needs of the individual child. In consequence, there are children who do not benefit from the existing assistance and support services and are living in particularly marginalised and excluded situations with a high risk of exploitation. Assisting children who are exploited in begging and in criminality or suspected to be exploited is particularly challenging, and the service providers report that some children reject the referral to child care institutions or asylum reception centres and do not want to attend school or enter into vocational training.

In practice, there is a risk that the current approach to child trafficking creates a system of identification, referral and assistance that promotes the differential treatment of children according to their status and backgrounds and that is exclusive and potentially discriminatory. All of this creates additional challenges for the officials who get in contact with the children to provide appropriate services, to gain the trust of the children and to maintain it.

Bilateral cooperation in the area of child protection

Bilateral cooperation between the authorities has thus far been established and practiced mainly with regard to law enforcement and prosecution services. At the European level, the regional organisations of Europol and Eurojust support the contacts, information exchange and cooperation between countries in these areas. Cross-border contacts have also been firmly established by the immigration authorities that use these channels when assessing asylum applications. The importance of cross-border cooperation was affirmed by the project group discussions and important successes have been achieved in investigating and prosecuting transnational cases in the region. Experience from Poland, for instance,

suggest that police liaison officers based in the embassies of their countries abroad play an important role to make bilateral cooperation and information exchange more efficient. They may facilitate the information exchange more swiftly and with less bureaucratic hurdles than other official channels, not only during investigations but also in preparation for the return of a victim to the country of origin. Police liaison officers may therefore be strategic partners for law enforcement agencies and service providers.

In the area of child protection, the project group discussed different scenarios and practices of how transnational child protection cases and the return of children are handled. The International Organisation for Migration (IOM) is involved mainly in the return of third-country nationals. The immigration authorities of the destination countries are involved also primarily in the cases of third-country nationals and may be cooperating with IOM on the return procedure. In the cases of EU citizens, the local child protection authorities often get in contact directly with their counterparts in the child's country of origin and involve the respective embassy or consular offices. In Lithuania, the central Child Protection and Adoption Service has an important role to play in managing bilateral contacts and procedures, as described above. Cases within the CBSS region are sometimes handled with the involvement of the National Contact Points for Unaccompanied and Trafficked Children, a network set up by the CBSS Children's Unit. There is thus no unified procedure for handling transnational child referral and protection cases and the cooperation and information exchange between countries may happen ad hoc with very few formal agreements.

The discussions in the project group noted that national laws on child protection or social welfare rarely regulate the transnational case management or the return of children by local child protection authorities. Some of the transnational child protection cases are therefore handled in a legal limbo, and there is a need to clarify the law and establish legal certainty for child protection services that act across borders.

In Sweden, the social services have made good experience working with the Brussels II Regulation that came into force on 1 March 2005¹⁶. It guides social welfare in cases of children that are EU nationals and where child protection measures are considered. Brussels II regulates parental responsibilities regarding children and is interpreted so that contacts should be made with the home country and that the home country shall provide information on the situation of the child regarding parents, custody and regarding actions taken in the home country, both legal actions and others.

Closed institutions for child victims of trafficking in Norway and in Sweden

Questions:

- 1 What legal grounds exist for taking a child into protective custody?
- 2 Is there a need for separate systems of protection for child victims of trafficking?

The Norwegian child welfare services are bound by the Child Welfare Act, which regulates, among others, the referral of children to institutional care. Paragraph 4.12 provides for the emergency placement of children and applies to children whom the authorities consider to be in a high-risk situation. Under the paragraph, the child welfare services are authorised to take a child into care in a closed institution in order to protect the child from his or her own 'harmful behaviour'. Within 24 hours, the regional court has to be notified about such decisions and the child welfare services have to hand in an application to continue keeping the child in the closed institution. The child welfare services have considered and tried to apply this law for the cases of the North African

boys involved in drug selling in Oslo and other children involved in criminal activities, when there are indications that a child might be a victim of trafficking. When the child welfare services handed in the applications to the regional court under paragraph 4.12, the court did usually not approve the child's placement in a closed institution since a necessary precondition is that the child must have demonstrated severe behavioural problems over an extended period of time. This is difficult to establish for the non-national children who have been in contact with the authorities only in the short term. As an alternative, the child welfare services offered other, voluntary forms of support and care. In many cases the children left the place that they were referred to within 24 hours without informing the authorities of their whereabouts and the child welfare services reported the missing children to the police.

The need of a new law regulating the placement of child victims of trafficking and potential victims in closed institutions has been much debated in Norway and many NGOs working with children supported the call for law reform in this area. As a result, the new Paragraph 4.29 was adopted and entered into force in July 2012. It targets specifically child trafficking cases and provides for the possibility to refer a child victim of trafficking or potential victim to a closed institution for up to six months. This paragraph has been seen as highly controversial and has been heavily debated as central ethical questions and standards of care remain unclear.

The referral to closed institutions under paragraph 4.29 is considered primarily a protection measure and not part of the punishment system. It is not a prerequisite for the child to have committed a crime, but it is sufficient that the police assess the child to be under threat. The referral under Paragraph 4.29 can be ordered even when the situation of the child has not been clarified entirely. Once the child has been placed in an institution, the case assessment and investigations continue. After placement of a child in a closed institution, the court has to reassess the application of the law every two weeks and the child welfare services have to hand in the required case documentation to the court and provide an update on the investigations. Thus far, the North African boys in the Oslo open drug scene are not yet officially considered as victims and there are doubts as to how the new paragraph will be applied to these children. Redefining the involvement of children in crimes as exploitation and trafficking remains a challenge.

¹⁶ European Commission, Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, Official Journal L 338 . 23/12/2003, pp. 1-29, available at: <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003R2201:EN:NOT>>, accessed on 16 January 2013.....

A total of NOK 8 million (approximately 1.1 million Euro) were allocated to build the institutions and the municipality of Oslo will receive half of these funds since it is expected to be handling a high number of cases. Thus far, there is one institution working mainly with female victims of trafficking for sexual exploitation. Setting up additional institutions requires a wide range of specialised services, including with regard to care and counselling, information, translation and cultural mediation, and it is important to ensure high quality standards of care. It is not yet clear, how to ensure the security of the institutions. They may have to be relocated regularly to protect the secrecy of the location.

In Sweden the Care of Young People's Act allows child protection agencies to apply to the court for a child to be taken into protective custody in a closed institution if his/her behaviour is a risk to the child or to others or if other circumstances in the child's life can be seen as a severe risk to the boy or the girl. This provision is used mainly for children at high risk and with an extremely self-destructive life style. The child protection services use this provision also when they see a risk that the child will leave the care arrangements without informing the authorities. The court decides on such a measure, a decision that is re-assessed at regular intervals, and several children suspected to be victims of trafficking have been taken into care under this law. Even though the law explicitly demands that first the voluntary measures are completely exhausted in assisting the young persons, courts have agreed on the care plans for children suspected to be victims of trafficking for limited periods of time.

Experiences discussed within the project group are mixed as some children have shown extreme relief realising that they are no longer controlled by the adults suspected of exploiting them but some children have closed up entirely and have refused to speak to representatives of the child protection services or the police, possibly as a result of being confined to a closed institution. It is challenging to keep a high level of expertise among staff in closed institutions where child victims are placed, since these cases remain few and far between. No specialised institutions for suspected victims of trafficking have been created; the facilities used are the ones used for all children considered to require the form of care and protection and are run by the National Board of Institutional Care, a state authority.

The best interest of the child: A common ground for inter-agency cooperation

Questions:

- 1 What aspects need to be considered when assessing the best interests of the child?
- 2 Which authority is best placed to ensure that such an assessment is indeed made?
- 3 Is it the locality where the child is identified as being at risk or as being a victim of exploitation or as being a victim of trafficking that should bear the responsibility of making a best interests determination?
- 4 In the case of non-national children, should the country of origin and the country/ies of transition be involved in the best interests determination?
- 5 How can the child's views be fully taken into account?

The best interests of the child should be a primary consideration in any decision and measure concerning children, in individual cases and collectively at the policy making level, as afforded under CRC Article 3. Many different authorities can be involved in conducting informal or formal best interests assessments for children. In order to determine the best interests of a child, the authorities need to gather a lot of information and details about the child's current and previous situations and background. They also need to be able to build a trustful relationship with the child and communicate effectively in a language that the child understands. All this is challenging, especially in the cases of non-national children. There may be cultural and language barriers, the contact to a non-national child is often only of short duration and the child may not immediately be willing to share information and disclose his or her story.

The project group discussed several cases and scenarios where professionals who are assessing the best interests of a child find themselves confronted with dilemmas. These dilemmas arise for instance when child protection officials are held, by their mandate, to weigh and balance different rights of the child against each other. In the case of closed institutions for children for instance, as discussed above, there may be a conflict between the obligation of the authorities to protect the child's safety from the exploiters and the child's right to freedom of movement. In the case of witness protection, as will be discussed below, there may be a conflict between the obligation of the authorities to protect the child's safety upon return and possible risks arising from within the community while also respecting the right of the child to return and be cared for by his or her family. Dilemmas arise further from the different standards in countries of origin and destination, for instance with regard to standards of living, care, protection, security or education.

In addition, the project group discussed situations, where the mandates and interests of the law enforcement agencies and child protection services appear to be in conflict. All agencies are however bound by the premise to consider the best interests of the child as a primary consideration. As such, the general principle of the best interests of the child can guide the inter-agency cooperation towards achieving a more holistic approach, balancing the different mandates and building a close, trusted and respectful cooperation that fully respects the rights of the child.

The project group discussed the experience made in Sweden, for instance, with regard to the case of Ana, a 15 year old Romanian girl who was begging in Stockholm (see page 41). There was a dilemma between gathering evidence to build the case on one side and ensuring Ana's safety while she was begging on the streets on the other. According to the Swedish legislation social services must in all cases assess if there is an immediate risk to the child and if so act to protect the child. The Care of Young Person's Act authorises the social services to act in protection of a child without the consent of the child or the legal guardians (parents) for one month. The assessment of the child's situation is to be made immediately but it may also take some days to assess the risk the child may be in.

If the social services assessed that Ana was at risk, they would either make a care plan with the family or apply for custody of the child. From the social services' point of view, the purpose of delaying their intervention was to allow the police to gather sufficient evidence to establish this case as a precedent. The police agreed to inform the social workers if the situation for the child deteriorated. There was an ongoing negotiation between the police and the social services as to how long they could continue the surveillance and when to take action. Experience shows that when social services take a child in before it has been clearly established that this might be a case of exploitation or trafficking, the parents will come to claim the boy or the girl who will then be back on the streets again soon, possibly in another municipality. It is a challenge to assess the best interests of the child in these situations, taking into account also the family's condition in the country of origin and the expectations of their community to send money home. In these cases, as done in Stockholm, the social services and law enforcement need to balance this dilemma in a wise and conscious way by sharing information, constantly re-assessing the child's situation and continuously revisiting the decisions taken.

The project group discussed these challenges primarily with regard to cases that involved a criminal investigation or procedure. It noted that there are areas where it is even less clear how to consider and respect the best interests of the child, especially when the alleged exploiters are not convicted and when there is insufficient evidence to build a criminal case.

The positive experience made in Sweden and other countries provide valuable insight on how to position the best interests of the child as a primary consideration in the context of inter-agency cooperation and transnational cases. It would be important to involve different agencies and areas of expertise also in the formal procedures for the best interests determination in order to achieve a more holistic consideration of the child's situation, and giving due consideration to the views of the child concerned.

The right of the child to be heard: A key to building trust

The project group discussed extensively the experiences made with hearing children in formal and informal contexts and the relevant procedures. Talking and listening to a boy or a girl and hearing what they have to say is at the centre of any prevention and response measures to address child trafficking and exploitation. From the first contact between a child and the authorities, there are opportunities for the officials to initiate a process of building trust. The right of the child to be heard and have his or her views taken into account, as afforded under CRC Article 12, is central to the work of child protection and law enforcement agencies and presents the officials involved with many challenges and opportunities as will be discussed in this section.

“How I like to be treated” – Children’s experiences with the authorities in Sweden

The Children’s Rights Bureau is the first independent child rights advocacy service for children in Sweden. It opened in September 2011 as part of the Ersta diakoni, an NGO that provides social services and health care in Stockholm. The Children’s Rights Bureau cooperates closely with child rights organisations, social services, schools and other institutions and agencies that refer children to the Bureau.

The Children’s Rights Bureau works through a holistic approach providing social, emotional and legal support for children and combines the traditions of social work and therapy with legal information and advice. It is based on the conviction that children need to feel safe and comfortable in order to be able to access and benefit from legal advice. The children who contact the Children’s Rights Bureau need more than counselling, they also need active support and professional expertise. Through the Children’s Rights Bureau, children can access a child rights lawyer free of charge.

The framework for the Children’s Rights Bureau’s activities is the Swedish legislation and the CRC. If a child is considered to be at risk, the staff refers them to the

social services. The target group are all children and young adults up to the age of 21 years. Each child’s case is treated individually regardless of the child’s status and situation. The role of the Children’s Rights Bureau is to support children being heard in the various processes that concern them. They act as a support person for the children in their contacts with the authorities, help them accessing the services that they are entitled to and to safeguard their rights in contact with the authorities. This includes accompanying the child to meetings with the authorities, informing children of their rights and providing legal advice.

Thus far, the Children’s Rights Bureau has been in contact with 70 children, including unaccompanied children who needed support in their contacts with the authorities. Many of the children share similar experiences regardless of which group or ‘category’ they are considered to be in: they have come to Sweden on their own, they may be scared and may have made traumatising experiences. Child trafficking cases have not been registered.

The Children’s Rights Bureau staff interview the children and keep file records for each child. A review of the experiences from the past year allows drawing some conclusions about how the children perceived their interaction with the Swedish authorities, how they felt they had been treated and what they need in order to feel safe and to cooperate with the authorities:

The children generally feel more comfortable and safe when they are treated with respect and when they are considered with care and a genuine interest in how they feel. The children appreciate to be seen in a positive light, rather than being considered a criminal, suspect or liar. It takes time also for the authorities to revisit their perception of certain groups of children and to start from the premise that the child is vulnerable, at risk and a potential victim rather than assuming from the outset that the child is a perpetrator.

“Don’t assume that I am lying. And if I am lying, please give me time to trust you. Give me a chance in your heart. Just say ‘good’, ‘take it easy’, ‘you’re ok, take your time’. Show me that you want to help me. It’s not easy telling you things that were dangerous to me. I was scared.”

Child in contact with the Children’s Rights Bureau, Sweden.

Officials and service providers seeking to communicate with the children should take time to listen and understand what a child is saying. The feeling of not being believed can create rejection and unwillingness to continue the conversation. Taking time also means to make the child feel physically comfortable, not invading the child's privacy or pushing the child from one place to another. It may be difficult for the child to understand how the national systems work and how each authority has their own role and approach. Understanding the formal official language and technical terms is often a challenge for citizens and causes even more strain on children, especially non-nationals, who are uncertain about the procedures ahead of them. Officials and service providers should be trained on how to communicate these processes in a clear language that the child can understand. They should be honest about the possible outcomes for children and not raise false expectations.

For many children, it is not easy to disclose to a stranger what happened to them. Again, it takes time for the child to build trust, understand and feel comfortable about disclosing and the child should be assured that it is ok if he or she does not tell all the details at once and to create opportunities to continue at a later stage. At the same time the child should be informed that it is important to tell the truth. Smugglers or traffickers may instruct children to tell false stories. It is important that the children know and understand that the immigration authorities have connections to their home country through which they seek to verify the child's case history and that telling a false story may reduce their chances in the asylum procedure. It may take time for children to raise questions, so it is important to take time to meet the child and share information in a way that he or she understands. The time aspects are important and a challenge as officials often have only a limited number of interviews scheduled with a child. Wherever possible and appropriate, the cooperation with social workers or child protection staff may be important to gain a more comprehensive understanding of the child's situation.

Interpretation and cultural mediation

Any contact between the authorities and a child that is not based on shared language skills depend on interpretation and cultural mediation. The project group discussions affirmed how important it is to ensure that the staff at the institutions have language skills and can act as cultural mediators, not only for children who are third country nationals but also for some groups of EU citizens, as for instance Roma children.

The project participants agreed that for the selection of an interpreter, it is important to make sure the person knows the right language and that the child feels comfortable about the interpreter. The physical presence of an interpreter can intimidate a child, especially when both are from the same small-scale population groups and when the interpreter may know the child's family or community. Phone interpretation provides a viable alternative for particularly sensitive cases. It may be an option to use an interpreter from abroad for rare languages to avoid contacts with the Diaspora in the country where the child was exploited and is currently hosted. Experience suggests that the quality of interpretation is not always satisfactory and that this may have a significant impact on the way that the child's story is understood by the authorities. All these observations raise concerns as to how the authorities ensure that the child's right to be heard is fully safeguarded in practice when interpretation services are used.

A child who had received assistance by child protection services abroad reported that interpretation had been available only for the most important interviews and conversations with the authorities. In the daily life at the shelter or institution that children are referred to, the access to interpretation is not necessarily guaranteed. Absent or poor communication with other children and child protection staff on a daily basis makes it more difficult for the child to gain trust and feel secure.

Hearing child victims and witnesses

Questions:

1 How can the child's witness statement and appearance in court ensure the best interests of the child?

The procedures for taking the testimonies of child victims of trafficking and hearing them at court differ between the four countries. Special procedures for child victims and witnesses of crime are however in place in all. In Poland, the police have a limited mandate when it comes to hearing child victims of crime. The procedures for hearing child victims depend on the age of the child and the nature of the offence. In cases of sexual or domestic violence and when the child victim is under 15 years of age, the interview is done by a judge in the presence of a child psychologist and followed by the prosecutor. Children who have been trafficked but who were not exposed to sexual offences do not benefit from this arrangement. The interview is done by the judge on duty, regardless of whether or not the judge has had a special training on interviewing child victims. The police do investigate the case and gather evidence to identify the perpetrator. Considering this division of tasks, there needs to be a good cooperation between the police, the prosecutor and the judges.

In Lithuania, the parents have to consent to the child testifying in a criminal proceeding. When there are doubts about the parents' capacity to take care of a child or their role in the offence, the child protection services take over the guardianship for the child in relation to the criminal proceeding. When the parents do not consent to the child giving testimony and there is not sufficient supporting evidence from other sources, the case is usually closed. There is yet little clarity on how the best interests of the child are determined in this regard and how the child's interests are weighed against the public interest of having serious crimes prosecuted. In transnational cases, the prosecutors abroad might lose the case when the parents do not consent that the child testifies. It may be important to establish clear criteria for the child protection services to be always involved

in criminal cases, including by taking the guardianship on the parents' behalf if and as appropriate.

The Children's House (Barnahus), Stockholm

The Children's House (Barnahus) in Sweden coordinates all services for child victims of crime and children at risk. It holds consultations with the relevant authorities, such as social services or schools, when there are suspicions or concerns about the safety and well-being of a child. In general, the Children's House works with cases of children in the age group 0-18 years, although it is mainly involved with the cases of younger children. The cases handled at the Children's House concern mainly sexual abuse and other sexual offences against children and cases where the suspect or defendant is related to the child, as a parent, family member, or in other ways as for instance a teacher.

The Children's House staff cooperates closely with the police on cases involving children. They review and evaluate the information and evidence available, assess the child's situation and take a decision on the type of services needed. This decision is communicated to all relevant authorities. The special training and experience of the Children's House staff and of the social services in general is critical for the case assessment and for taking decisions about the urgency of action. The Children's House comes in when both, the police and social services are involved in a case and helps strengthening their collaboration. The Children's House might not always be needed in these cases but it could be used more often as there are many other types of cases as well that would benefit from this kind of cooperation.

In Sweden, the interview with a child victim is always done by a specially trained police officer. All interviews with children take place in a child-friendly interviewing room at the premises of the Children's House, including in cases that it is not directly involved in. The interview is video-recorded and transmitted to a 'listening room', where the prosecutor, social services and the child's lawyer follow it. The defence lawyer is admitted to attend in some cases. The child is accompanied by his or her lawyer and young children usually have a 'safety person' to accompany them in cases where the parents

are being investigated. A child psychologist can be present in the listening room as well, especially when he or she is already familiar with the child's case and can be of assistance for the interview. The child psychologist from the Children's House meets with the child and the family up to 5 times and refers them thereafter to the local authorities where they live.

The video-recorded interview can be used as evidence at court. The law provides as a general rule that children under 15 years of age should not be heard in a court room, but this depends also on the nature of the crime. It is the prosecutor who decides how to conduct the investigation and the interview.

The project group discussed the Children's House model as a positive example of taking the statements and testimonies of child victims of crime. The model is in place also in Norway, where its scope and use is comparable to that of Sweden. Currently, however, the services offered by the Children's Houses are not yet available to each child victim, but there are differences with regard to the types of crimes and a significant degree of discretion is left to the judges as to whether they use the Children's House services or not. Whereas the practice of using this service for national children who have been sexually abused is well established, it will be important to make this service available also for non-national children and children who have been exposed to exploitation, including in the context of trafficking. In addition to hearing child victims of crime, it may also be important to explore and mobilise the opportunities that these institutions offer to talk to children at risk and for the investigation of suspicions.

Victim status and compensation

Questions:

- 1 Do child victims of trafficking receive crime victim compensation?
- 2 If such compensation is paid, whom is it paid to?
- 3 Is there a difference between nationals, EU citizens and third country nationals when such compensation is determined?

There are different procedures and priorities attached to the status of a victim of crime in the four countries. In Lithuania, only persons who collaborate in the criminal investigations and proceedings and who testify against the defendants at court are granted the status of a victim of crime and are then entitled to victim assistance and compensation according to the law. The decision to grant the status is taken by the prosecutor. Persons who do not have this status can receive assistance through NGOs, including Caritas.

In Norway and Sweden, the law provides that the same compensation shall be granted to all persons who are victims of crimes committed in the countries regardless of the nationality or legal status of the victim or the perpetrator. The compensation is paid from the perpetrator's assets, to which the state adds if these are not sufficient. Crime victim compensation can be paid from the state funds even if the perpetrator is not sentenced when there is an on-going police investigation and when it is beyond any doubt that the crime has been committed.

In Norway this provision applies to serious criminal offences, including human trafficking. According to Norwegian law, the compensation should enable the person to re-establish his or her life, so there is a range of discretion according to the national standards of living in the respective country.

Victim-witness protection

Questions:

- 1 Are there specific protection measures for child victims of trafficking when they act as witnesses?

The experience made by the project participants affirms that children who testify against their exploiters and their families are considered to be at risk of severe repercussions. The children as well as social workers and child protection workers perceive this risk to be real. Each of the countries has set up special protection measures for victim-witnesses. In transnational cases and when children choose to return to their home country, the continuity of victim-witness protection measures are however not yet clearly regulated. When the safety of the child victim and witness cannot be guaranteed in the country of origin, this creates a potential conflict between the child's right to return and to be cared for by the family on one side, and the right to be protected from repercussions from the perpetrators on the other. The application of national regulations for victim and witness protection in countries of origin and destination may therefore need to be clarified and strengthened for transnational cases. In addition, the recourse to family reunification and relocation may need to be considered and applied more actively for these cases.

A specific challenge in this regard is to ensure effective information and communication on the developments in the court cases and information about when a convicted perpetrator is expected to leave the prison. In Norway, for instance, it would be the responsibility of the victim's lawyer to ensure that the child is informed about the date of release. It remains uncertain if the lawyer lives up to the duty to inform and how to ensure that the lawyer or the relevant authorities in the child's country of origin have access to the latest contact details of the victim, and treat these confidentially.

In the context of the national consultations, social workers and child protection specialists kept emphasising that the child victims and witnesses are often profoundly afraid of and intimidated by the recruiters and exploiters. Improved safety and security for victim-witnesses

is therefore not only an imperative and a major concern from a child rights perspective but might also help to increase their trust in the authorities and their willingness to collaborate and testify.

Social media

Questions:

- 1 What role can social media play in the protection and support to child victims of trafficking?

The social media are important communication tools for children and young people to share information, including information about their journeys, encounters and experiences. The project participants related how children use the internet and social media also while they are abroad and while they are in situations of exploitation. In one case, a child who had left a situation of exploitation was in contact with another child who was still living with the exploiter and the two exchanged information about the exploiter's plans to recruit the child again. Children use social media also to stay in contact with social workers and child protection staff, and with their families at home. Social media hold therefore a great potential to communicate information on where to seek assistance and on general and targeted prevention and protection measures. Social media might be mobilised in a more strategic way to prevent child trafficking, to support the investigations, and to offer support for children.

CONCLUSIONS AND RECOMMENDATIONS

At the centre of this CBSS project on child exploitation in begging and criminality are the children who have been exposed to exploitation and trafficking or who are at risk, and their rights and needs. On the side of the authorities, the project focused on the child protection or social welfare services, the police and prosecution. As the project group shared and discussed their experiences in how these different actors get in contact, interact and cooperate, many challenges and contentious issues were identified, and some promising examples and opportunities were discussed. Each of the actors or authorities has its specific perspective and approach to child trafficking, and contributes to the cooperation with its own strengths and limitations. They clearly gain in strength and maximise their impact when they work together and the collaboration between these actors is the key to addressing child trafficking in a successful way. The project group identified some characteristics of this cooperation that are essential to ensure that each actor can pursue their specific needs and interests according to their mandates: Mutual trust, joint commitment, and a child rights-based approach that safeguards the child at the centre of each and all measures and decisions.

The following summarises the key findings, conclusions and recommendations resulting from this regional project. They may be considered for the ongoing process of strengthening the cooperation within and across agencies and the safeguard of children's rights:

It is vital to train local authorities on the rights of child victims of trafficking to access social welfare services and protection

Training and awareness raising activities have been rolled out extensively to train officials and professionals on child trafficking and how to address it. As a result, there is a higher awareness of what child trafficking is and how to identify and respond to cases. Yet, 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. Victims are still considered to be mainly women and girls exploited in prostitution and there appears to be a reluctance of recognising children exploited in begging and criminal activities as victims. There is recognition of the complexity and diversity of human trafficking cases but it remains a challenge to translate this into adequate policy strategies and measures that are sufficiently broad to integrate all forms of child trafficking and anticipate the changing patterns of the crime.

Training, information and capacity building continues to be important, specifically also for local child protection services, local police and border guards, judges and prosecutors. 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.

Ensure that law enforcement and the judiciary know that a child's consent to the exploitation shall be considered irrelevant

The main elements of the international definition of child trafficking are reflected in the national legislation of the four countries participating in this project, yet the way that child trafficking is being defined and conceptualised in national law differs between the countries. This implies challenges for conceptual clarity, the comparison of criminal statistics across borders, and may impact the bilateral cooperation between law enforcement and child protection authorities. A child who is considered a victim of crime in a country of destination may not necessarily be considered so in his or her home country.

Although the consent of the child to a situation of exploitation is considered irrelevant under national laws in line with international standards, the elements of 'force' or 'coercion' still figures prominently in the laws and they way they are being interpreted and applied in practice. In particular, the forms of exploitation covered by the child trafficking laws remain limited. In some of the countries, there is reference to 'forced labour or services' whereas the exploitation of labour and services that does not qualify as 'forced labour' remains unaddressed. The open ended list of forms of exploitation provided for by the international definition has not been adopted consistently in all countries. In consequence, some cases cannot be addressed under the child trafficking law. This constitutes an inconsistency within the national laws and with regard to international standards. Recognising the 'irrelevance of consent' as a purely legal concept and understanding more subtle forms of coercion that often play a role in child trafficking cases remains a major challenge. Children who are exposed to exploitation without being subjected to severe physical violence or coercion risk not being identified as victims and losing out on protection and other safeguards.

Consider making all exploitation of a child illegal

A broad protection from exploitation, as afforded under the UN Convention on the Rights of the Child, is not yet fully reflected in national law, policy and practice. Some forms of exploitation of children can be prosecuted only if they are considered child trafficking cases. This applies specifically to the exploitation of children in begging and criminal activities. Although a central concept to the trafficking definition, it has still not been defined in any of the countries what exactly constitutes exploitation of children. The concept, definition and scope of child exploitation need to be revisited in national legislation and policy, in line with the standards afforded under the Convention and other relevant international treaties. There is yet a need to develop guidance on how to identify cases of child exploitation, especially in the absence of physical violence and force. The response to child trafficking cases is currently prioritised over a more integrated response to the exploitation of children in all its forms and contexts and prevention measures are being largely neglected.

Ensure a wide understanding of the concept of a 'victim'

The experience with addressing and prosecuting child trafficking cases in the participating countries suggests that 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. There is a need to more strongly recognise the agency and evolving capacities of children also when they are victims of crime and to strengthen the awareness and use of the term 'victim' primarily as a legal concept. As a legal concept, the term 'victim' is inherently connected to the status of a victim of crime with all related legal safeguards as afforded under international and regional standards. As such, it is an empowering and restorative concept. Under international standards, any child who has been exposed to exploitation would be considered a victim of crime and is entitled to the related rights and safeguards, regardless of the form and context of exploitation.

Ensure that identification manuals and checklists include guidance on children trafficked for exploitation in begging and criminality

Existing tools and checklists for the identification of child victims of trafficking may not have captured successfully the diversity of the crime, the victims, and the forms of exploitation. There is little guidance, for instance, on how to identify children involved in begging and criminal activities as (potential) victims of trafficking. Assessments and decisions as to whether or not a child is a victim differ between service providers, law enforcement and the judiciary. At the same time, however, the official identification and verification of a child's status as a victim of trafficking has a direct impact on the type of services and entitlements that the child will have access to. The official identification and verification is often considered part of a rather predetermined and rigid system for the referral and assistance of victims of trafficking. Evidence suggests, however, that the official identification, referral and assistance do not always lead to a sustainable improvement of the child's situation.

At the same time, there are children who do not seem to 'fit into' the existing systems and there is limited scope of action for child protection professionals to adjust the services offered to the specific situation and needs of each individual child. The system and relevance of the official identification therefore needs to be revisited with a view to orienting it more closely at child rights and protection standards and adopting a broader approach that places the individual child at the centre, regardless of his or her status and background. One way to achieve this might be to integrate measures for the identification of child trafficking cases into broader approaches for the identification of child victims of crime and children at risk and the national child protection and welfare systems.

The cooperation between law enforcement and child protection services for the identification of child victims of trafficking, possibly including other partners as well such as the private sector or immigration authorities, can offer a broader and more holistic approach and stronger protection for the children concerned. Whether one or multiple authorities are officially in charge, the identification of cases and monitoring of children at risk needs to be organised systematically. As a key to developing a more holistic approach, it is important to ensure that the specialised mandates of the different agencies involved in the identification do not result in a fragmented protection system. A major challenge is to bring information from law enforcement and social services together at the local level and to connect the local authorities horizontally and across regions.

Support measures for children victims of trafficking need to include all aspects facing a child at risk and need to be broad enough to include also assistance to national victims of trafficking

The existing assistance and response system for child trafficking cases seems to be still focused strongly on non-national children exposed to sexual exploitation who are eager to be 'rescued' from a trafficking situation and to accept assistance. There is a high degree of uncertainty and lack of experience and suitable institutions when it comes to assisting children who have been exposed to other forms and contexts of exploitation,

especially when their own parents or community members are involved. Little is known about the types of support services that are appropriate for boys and girls involved in begging and criminal activities, for instance, and for children who do not demonstrate any apparent will to seek or accept assistance. In addition to the specific assistance programmes for child victims of trafficking, the mainstream child protection and social welfare systems have a wealth of experience to offer from their work with national and resident children outside of the trafficking context. Child protection, family support and monitoring, crime prevention and other programmes that work for national children might therefore be applied also more consistently to non-national children. To this end, it is important to clarify the jurisdiction over children, including when they migrate alone or with parents or guardians, and to enable continuity in the contacts between children, families and the child protection authorities for services to take effect.

The support and assistance for child victims and children at risk might benefit from a closer involvement of law enforcement services, expanding their mandate in the area of child protection, in close cooperation with child protection authorities and specifically considering the potential impact of law enforcement services in the area of crime prevention and monitoring of children at risk. On the other side, child protection services may need to be equipped better to manage the specific risks that child victims of trafficking are facing, including with regard to safety and security issues in the longer term in the home countries and communities. The cooperation between law enforcement and child protection services for the identification, referral and assistance of child victims and children at risk is critical for a functioning support structure, applying a holistic and rights-based approach with the child at the centre.

Child victims of trafficking should have the same right to assistance and protection whatever legal status they have in the country

There is evidence to suggest that the responses to child trafficking in law, policy and practice risk setting up a mechanism for the identification, referral and assistance of victims that is based on differential treatment and is potentially exclusive and discriminatory. The measures

taken appear to be guided strongly by numerous factors that are related to the child's national and ethnic background, age, sex, ability, forms and contexts of exploitation, and the degree of violence and coercion involved. To some degree, these patterns of exclusion seem to be provoked by the wording of national laws, to some degree they are caused by the prevailing perceptions and the understanding of child trafficking and child victims. By working more strongly with a child rights-based approach and individual case and needs assessments it may be possible to overcome patterns of exclusion and discrimination, reduce the relevance of status and develop more integrated and holistic approaches to prevent and respond to child exploitation and protect children at risk.

Identify best practices on how the best interests of the child can be determined through a balanced approach

Child trafficking cases are often very complex and it may take time for the authorities to fully understand the situation, background and story of a child. In some cases, the professionals who are assessing the best interests of a child find themselves confronted with dilemmas. These dilemmas arise for instance when child protection officials are held, by their mandate, to weigh and balance different rights of the child against each other. Dilemmas arise also when the standards in countries of origin and destination differ significantly, for instance with regard to standards of living, care, protection, security or education. In addition, there may be situations, where the mandates and interests of the law enforcement agencies and child protection services appear to be in conflict. All agencies are however bound by the premise to consider the best interests of the child as a primary consideration. As such, the general principle of the best interests of the child can guide the inter-agency cooperation towards achieving a more holistic approach, balancing the different mandates and building a close, trusted and respectful cooperation that fully respects the rights of the child. Considering its cross-cutting nature, the general principle of the best interests of the child is directly related to all aspects of a child's life, background and personality and to all the human rights of the child as afforded under international standards. This broad dimension can best be captured when different actors work together and consult with the child for best interests assessments and determinations. It may be important to elaborate

on positive experiences from the various countries in order to develop guidance on how to position the best interests of the child as a primary consideration in the context of inter-agency and transnational cooperation. It is important to involve different areas of expertise in the informal assessments and formal procedures for the best interests determination in order to achieve a more holistic consideration of the child's situation, giving due consideration to the views of the child concerned.

Ensure the child victim's right to be heard

Talking and listening to a boy or a girl and hearing what they have to say is at the centre of any prevention and response measure to address child trafficking and exploitation. From the first contact between a child and the authorities, there are opportunities for the officials to initiate a process of building trust. Officials and service providers seeking to communicate with the children should take time to listen and understand what the child is saying. The feeling of not being believed can create rejection and unwillingness to continue the conversation. Taking time also means to make the child feel physically comfortable, not invading the child's privacy or pushing the child from one place to another. Finding a language that the child can understand implies not only the use of qualified and trusted interpreters and cultural mediators, it also means that procedures need to be explained in simple language, avoiding complicated technical terms. In the context of legal and administrative proceedings, it is critical to work with Children's Houses or comparable institutions and make them accessible for all child victims and children at risk.

Establish centralised expertise that can support and empower local support measures

Cases of child trafficking and exploitation are often particularly complex, especially when they take place across borders. At the local level, there is often a limited experience and capacity to handle such cases and it is important to ensure that local authorities have access to technical expertise from the central level, including child protection, police and prosecution services. Centralised expertise may be made available through a specialised body or unit within the central administration or attached to existing bodies within a major municipality or

other strategic locations. Technical expertise should be offered by officials who are working with these cases on a daily basis and who can guide, advise or supervise others in that area. Making technical expertise available to local authorities is also key to ensuring more consistent and comparable standards of quality in decentralised systems. An option to be considered is to connect the provision of technical assistance and expertise from a central level with a monitoring function over the performance of local authorities and mechanisms to hold local authorities accountable.

National child protection systems need to be prepared to handle also transnational cases of children at risk

Child protection mechanisms and systems are in place in all the four countries participating in this project. They have been designed primarily to cater for children who are nationals or residents of the countries. When the child protection services are confronted with transnational cases, there are a lot of issues that are not clearly regulated by law, or where procedures have not been clearly established, within the country and in bilateral cooperation. The procedures of how to offer care to a non-national child appear to be clearer when the child is unaccompanied or separated, when the child seeks asylum or when the case is investigated under criminal law. The preventive and empowering work for children and families on the move is still limited. National child protection systems need to be better prepared to handle transnational cases and to cooperate with their counterparts across borders.

Focus on implementation of national laws and policies into child rights practice

The national laws and policies relating to child trafficking, child rights and protection and other relevant sectors are not yet perfectly reflecting all the standards of the CRC and other international treaties. Yet they are strong and considered to allow for a wide range of action for the officials and practitioners who are working with child trafficking cases and vulnerable groups. There are however many structural issues that create obstacles to the effective implementation of the existing laws

and policies into child rights practice. They include the fragmentation of institutional mandates, the challenge of ensuring accountability and comparable standards in the decentralised systems, a prioritisation of response over proactive prevention measures, as well as the bureaucracies and mindsets that are reluctant to adapt to or anticipate emerging trends and evidence. There is a need for comprehensive implementation strategies to reflect the indivisibility of the human rights of the child and their close relation to other policy areas. Inter-agency cooperation at the central, regional and local levels of the public administration and in synergy with private partners are key to achieving effective implementation.

ANNEX

Acronyms

CBSS Council of the Baltic Sea States
CRC The UN Convention on the Rights of the Child
EGCC The Expert Group for Cooperation on Children at Risk
EU European Union
SI Swedish Institute

THE INTERNATIONAL DEFINITION OF TRAFFICKING IN HUMAN BEINGS AND CHILD TRAFFICKING AS AFFORDED UNDER THE UN TRAFFICKING PROTOCOL

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime, defines 'trafficking in human beings' 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. 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:

(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:

(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:

(d) "Child" shall mean any person under eighteen years of age¹⁷.

(Article 3)

¹⁷ United Nations General Assembly, Resolution Adopted by the General Assembly, 55/25, United Nations Convention against Transnational Organised Crime, A/RES/55/25, Fifty-fifth Session, 8 January 2001, accessed from: <http://www.unodc.org/pdf/crime/a_res_55/res5525e.pdf>, pp. 32-33.....

TRANSLATED EXCERPTS FROM THE NATIONAL CRIMINAL LEGISLATION

Lithuania

Criminal Code Chapter XX: Crimes against human liberty¹⁸

Article 147: Trafficking in human beings

1. A person who sells, purchases or otherwise conveys or acquires a person or recruits, transports or holds in captivity a person by using physical violence or threats or by otherwise depriving him of a possibility of resistance, or by taking advantage of the victim's dependence or vulnerability, or by resorting to deceit, or by accepting or paying money or by obtaining or granting any other benefit to a person who actually has the victim under his control, where the offender is aware of or seeks exploitation of the victim (irrespective of the latter's consent) for the purposes of slavery or under the conditions similar to slavery, prostitution, pornography or any other forms of sexual exploitation, forced labour or services including begging, or for the commission of a criminal offence or for any other exploitative purposes, shall be punished by imprisonment for a term from two to ten years.

2. A person who commits the act provided for in Paragraph 1 of this Article in respect of two or more victims or by endangering the victim's life, or by participating in an organised group, or by being aware of or seeking the acquisition of the victim's organ, tissue or cells, or while acting in his capacity as a civil servant or a person fulfilling public administration functions and performing his duties, shall be punished by imprisonment for a term from four to twelve years.

3. The victim of the criminal offence provided for in this Article may be released from criminal liability for the criminal offence which he has been directly forced to commit because of the criminal offence provided for in this Article committed against him.

4. A legal entity shall also be held liable for the acts provided for in Paragraphs 1 and 2 of this Article.

Criminal Code Chapter XXIII: Crimes and misdemeanours against a child and a family

Article 157: Purchase or Sale of a Child

1. A person who offers to purchase or otherwise acquire a child or sells, purchases or otherwise conveys or acquires a child, or recruits, transports or holds in captivity a child, while being aware of or seeking that the child (irrespective of the latter's consent) be illegally adopted or exploited for the purposes of slavery or under the conditions similar to slavery, prostitution, pornography, any other forms of sexual exploitation, forced labour or services including begging, or for the commission of a criminal offence or for any other exploitative purposes, shall be punished by imprisonment for a term from three to twelve years.

2. A person who commits the act provided for in Paragraph 1 of this Article in respect of two or more children or against young children, or by endangering the victim's life, or by participating in an organised group, or by being aware of or seeking the acquisition of the victim's organ, tissue or cells, or while acting in his capacity as a civil servant or a person fulfilling public administration functions and performing his duties, shall be punished by imprisonment for a term from five to fifteen years.

¹⁸ The Republic of Lithuania, Law on the Approval and Entry into Force of the Criminal Code, 26 September 2000, No. VIII-1968, as last amended on 13 June 2012; Translation provided by Arūnas Meška, Prosecutor of the Criminal Prosecution Department of the Prosecutor General's Office of the Republic of Lithuania, 24 January 2013.

3. The victim of the criminal offence provided for in this Article may be released from criminal liability for the criminal offence which he has been directly forced to commit because of the criminal offence provided for in this Article committed against him.

4. A legal entity shall also be held liable for the acts provided for in Paragraphs 1 and 2 of this Article.

Article 159: Involvement of a Child in a Criminal Act¹⁹

A person who, by persuading, requesting, paying, threatening, deceiving or otherwise, involves a child in a criminal act shall be punished by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to three years.

Norway²⁰

General Civil Penal Code, Chapter 21 Section 224:

Any person who by force, threats, misuse of another person's vulnerability, or other improper conduct, exploits another person for the purpose of

- a) prostitution or other sexual purposes,
 - b) forced labour or services, including begging,
 - c) military service in a foreign country, or
 - d) removal of any of the said person's organs,
- or who induces another person to allow himself or herself to be used for such purposes, shall be guilty of human trafficking and shall be liable to imprisonment for a term not exceeding five years.

19 The Republic of Lithuania. Law on the Approval and Entry into Force of the Criminal Code, 26 September 2000, No. VIII-1968, as last amended on 11 February 2010 - No XI-677, Vilnius, available at: http://www3.lrs.lt/pls/inter3/dokpaies-ka.showdoc_1?p_id=366707, accessed on 10 November 2012.

20 Justis- og Politidepartementet (Ministry of Justice and the Police). Stop Human Trafficking. The Norwegian Government's Plan of Action to Combat Human Trafficking (2006-2009). Oslo, 2007, accessed from:

Any person who

- a) makes arrangements for such exploitation or inducement as is mentioned in the first paragraph by procuring, transporting or receiving the person concerned,
- b) in any other way aids and abets such exploitation or inducement, or
- c) provides payment or any other advantage in order to obtain consent to such exploitation from any person who has authority over the aggrieved person, or who receives such payment or other advantage shall be liable to the same penalty.

Any person who commits an act referred to in the first or second paragraph against a person who is under 18 years of age shall be liable to a penalty independently of any use of force or threats, misuse of a person's vulnerability, or other improper conduct.

Gross human trafficking is punishable by imprisonment for a term not exceeding ten years. In deciding whether the offence is gross, particular importance shall be attached to whether the person exposed to the act was under 18 years of age, whether gross violence or coercion was used or whether the act led to considerable gain.

Poland²¹

Penal Code Section XXIII: Offences against freedom

Under Polish law, THB is subject to a single criminal offence, set out in Article 189a of the Criminal Code. The definition of trafficking in human beings is provided for in Article 115 paragraph 22 of the Criminal Code. The maximum penalty according to the general rules applying to felonies, which include THB, is deprivation of liberty for a term of 15 years (Article 37 of the Criminal Code).

21 Cited from presentation at country visit to Poland: Kozłowska, Małgorzata. Prosecutor General's Office, Department for Organized Crime and Corruption. Trafficking in human beings in the Polish legal system. Examples of THB investigations concerning exploitation of children in begging, Warsaw, 27 August 2012, slides 18-21.

Article 189a

§ 1. Whoever commits the crime of human trafficking, shall be subject to the penalty of deprivation of liberty for a minimum term of three years.

§ 2. Whoever commits an act of preparation for the crime specified in paragraph 1, shall be subject to the penalty of deprivation of liberty for a term between three months and five years..

Article 115 § 22

Human trafficking means recruitment, transportation, transfer, harbouring or receipt of persons with the use of the following:

- 1) violence or unlawful threat,
- 2) abduction,
- 3) deception,
- 4) fraud or taking advantage of inability for proper understanding of taken actions,
- 5) abuse of dependence in the relationship, abuse of critical situation or a state of helplessness,
- 6) provision or acceptance of material or personal benefit or promise thereof to a person taking care or having custody of another person.

in order to abuse such person even if such abuse is performed upon the consent of such abused person, especially in prostitution, pornography or other forms of sexual abuse, in forced labour or services, begging, slavery or other forms of abuse of human dignity or for the purpose of acquiring cells, tissues or organs in violation of the provisions of law. If the conduct of the perpetrator is directed against a minor, it constitutes human trafficking, even if methods or measures mentioned in sections 1-6 have not been applied”.

Petty Offence Code

Article 54

§ 1 Whoever begs in a public place while having assets for subsistence or being capable of work shall be the subject of restriction of liberty or fine up to 1500 PLN. [Note: approx. 350 Euro]

§ 2 Whoever begs in a public place importunately or deceitfully shall be the subject of arrest or restriction of liberty.

Sweden²²

Penal Code, Chapter 4: Crimes against Liberty and Peace

Section 1

A person who seizes and carries off or confines a child or some other person with intent to injure him or her in body or health or to force him or her into service, or to practise extortion, shall be sentenced for kidnapping to imprisonment for a fixed period of at least four and at most eighteen years, or for life.

If the crime is of a less serious nature, imprisonment for at most six years shall be imposed. (Law 1998:393). (Law 2009:396)

Section 1 a

A person who, in other cases than those referred to in Section 1, by unlawful coercion, deceit, exploitation of another person's vulnerable situation or by other such improper means recruits, transports, transfers, harbours or receives a person with the intent that he or she shall be exploited for sexual purposes, the removal of organs, military service, forced labour or other activity in a situation that places that person in distress, shall be sentenced for trafficking in human beings to imprisonment, for at least two years and at most ten years.

A person who commits an act referred to in the first paragraph against a person who is under eighteen years of age shall be sentenced for trafficking in human beings even if none of the improper means described in that paragraph was used.

If an offence referred to in the first or second paragraph is less serious, the sentence shall be imprisonment for at most four years. (Law 2010:371)

²² Sweden. The Swedish Penal Code. Ds 1999:36. Swedish Statutes in Translation. Ministry of Justice. available at: <<http://www.government.se/content/1/c6/02/77/77/cb79a8a3.pdf>>. accessed on 10 November 2012

