

Child Trafficking in the EU

Challenges, perspectives and good practices

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Purpose

- Child trafficking is a serious problem in the EU.
- Study aims to:
 - highlight current deficiencies in EU law addressing child trafficking
 - identify good practices
 - provide opinions how to develop EU law
- FRA aims to influence legislation at EU level to improve fundamental rights protection of child victims of trafficking.

EU law addressing trafficking

- Council Framework Decision on combating trafficking in human beings (2002):
 - focus on criminal law
 - limited definition: does not cover all forms of exploitation
 - weak provisions for protection and assistance of victims

EU law addressing trafficking (2)

- Council Directive 2004/81/EC EU on residence permit for victims of trafficking who cooperate (2004):
 - reflection period:
 - to recover and escape influence of traffickers
 - reflect on cooperation with authorities
 - duration depends on national law
 - may be terminated, if victim has renewed contact with traffickers
 - purpose: ensure effective criminal procedures
 - includes provisions for fundamental rights of children (education, health, family tracing)
 - only optional for children

Limitation of definition

- Currently, the definition of trafficking at EU level is limited to the purposes of sexual and labour exploitation
- Forms of exploitation currently not covered: illegal adoption, begging, organ extraction etc.
- FRA opinion: EU definition of trafficking needs to be expanded to cover the scope of the more comprehensive definition contained in Warsaw Convention of the CoE from 2005.

Ineffective criminal law

- Ineffective criminal law: problem of identification
- Final convictions based on child trafficking (2000-2007):
 - convictions detected only in 4 Member States of the EU
 - not a single case of child trafficking was ever identified nor prosecuted in some Member States of the EU
 - Generally, very few confirmed cases of conviction in child trafficking cases
 - Sanctions differ widely
- Identification of victims of child trafficking is crucial to prosecute traffickers and to protect and assist victims of child trafficking

Illustrative case

- Case of Dayo, 15 years old, reported on BBC news on 17/5/2004
- brought from Nigeria to the UK in 2000
- looked after 3 children, domestic tasks, beaten daily
- the trafficker tried to return her
- she refused to board plane and told her story to the immigration service at airport
- Immigration service detained her and tried to deport her after 5 days
- Asylum Aid group prevented the deportation claiming that she was an unaccompanied minor asylum seeker in the UK.

Good practices on identification

- Good practices were identified in Finland and in the Czech Republic: detailed instructions to authorities on how to identify victims of trafficking

FRA opinions

- Detailed instructions on identification should be integrated in EU legislation as minimum standard
- Effectiveness of EU legislation needs to be monitored in practice (integrating the views of NGOs and of the FRA based on the model of RED directive)
- Sanctions need to be further approximated

Detention of child victims of trafficking

- In the vast majority of EU Member States, the detention of children pending their return is as such not prohibited by law. However it is often considered to be a measure of last resort (eg. DE, EE, CY, NL, AT, SE, UK).
- In Finland, the basic principle is that a child who is believed to be a victim of trafficking is not detained under any circumstances.

Policy of non-punishment of victims of trafficking

- In half of the Member States no formalised policy on non-criminalisation is pursued. In these countries, child victims of trafficking could be prosecuted for border offences or other offences like illegal prostitution.

Illustrative case

- Case of Regina, 16 to 17 years old, national of Nigeria, UK Court of Appeal Judgment (2008) EWCA Crim *2835
- She was brought to the UK by a man, installed in a flat, raped and forced into prostitution
- In 2008, she was arrested and prosecuted for an immigration offence.
- Despite the material that suggested that she was under aged, there was no inquiry into her age.
- She was sentenced to 8 months imprisonment.
- Her story was verified by the court of appeal which nullified her conviction.

FRA opinions

- EU legislation should ensure that a child who is believed to be a victim of trafficking should not be detained as a matter of principle.
- EU legislation should include a formal policy of non-criminalisation of child victims of trafficking.

Disappearances from shelters

- In various Member States (statistics available for CZ, DK, HU, IE, LT, NL, SE, UK) the disappearance of children from shelters with unknown destination is wide-spread.
- Despite this there is no monitoring of the problem through the collection of statistics in at least nine Member States.
- Despite the existence of the problem few Member States have been prompted to develop policies of prevention.

Illustrative case

- In 2008 **400 minors of the 1320** arrived in the **Lampedusa immigrant centre in Italy** have **disappeared**. According to Roberto Maroni, the Minister of Interior of Italy, they might have been trafficked for organs. According to the organization “Save the children” there is no evidence of organ trafficking, but the disappeared children might have fallen in the hands of criminal organizations, especially sex traffickers.[\[1\]](#)
- [\[1\]](#) M. Reggio, “Traffico d’organi anche in Italia Maroni lancia l’allarme minori”, in: *La Repubblica* (24/02/2009) p 2.

Good practice

- Good practice to offer a long term perspective to victims of child trafficking
- The Czech Republic allows unaccompanied minors to stay in the country until they reach the age of majority for the simple reason of being an unaccompanied child. Children who are studying may then apply for a national residence status. Upon the condition of integration, a permanent residence permit may be granted to them.

FRA opinion

- EU legislation should guarantee that victims of child trafficking are sheltered in suitable facilities which are suitably tailored to their needs.
- EU legislation should oblige Member States to collect statistics on children leaving shelters or otherwise disappearing and to make these statistics available for public scrutiny.
- EU legislation should oblige Member States to enact a policy to prevent such disappearances from taking place, including a long term perspective for victims of child trafficking to stay in the country.

Closing words

- The principle of best interests of the child is a general principle also of EU law.
- In general, care and protection of child victims of trafficking should be prioritised.
- Care and protection of child victims of trafficking should not depend on cooperation of the children in the criminal procedure.
- Care and protection of children might also include giving a long term perspective and a secure residence status.

Thank you

- Full report available at: <http://fra.europa.eu>
- Print copies available for order free of charge
- Many thanks for your kind attention