

COMBATting CHILD SMUGGLING AND TRAFFICKING

A Comparative Study of the Situation in Nine European States

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1. INTRODUCTION

Child smuggling and trafficking had hardly been discussed before and during the 1990s, despite it having always existed. The fact that, in the last few years, the issue of child smuggling and trafficking has been brought into the public arena of national and international bodies is a significant accomplishment.

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It can also be considered that there has been some progress towards the elimination of criminal activities related to child smuggling and trafficking. At the same time, academics consider that these achievements are far from satisfactory.¹

There is a correlation between the phenomenon of migration and child trafficking. Children who are recruited and transported for the purpose of exploitation are considered as trafficked² no matter whether or not they consented to the move.³ The reason for this is that the questions about choice, consent and agency are irrelevant when children are concerned.⁴ The correlation between child migration and child trafficking has been noticed by the Special Rapporteur on the sale and sexual exploitation of children and the Special Rapporteur on trafficking in persons, especially women and children, and they have published a joint study on this subject. More particularly, they have found that:

‘As one of the main destinations for children on the move who are fleeing violence, conflict and humanitarian crisis, Europe is at the heart of the sale of, trafficking in and other forms of exploitation of children. In Europe, child trafficking has increased sharply owing to the migration crisis.’⁵

This chapter aims to determine how the existing international legal framework, in particular the Council of Europe Convention on Action against Trafficking in Human Beings, protects migrants – often unaccompanied children – against

¹ Morawska E., ‘Trafficking into and from Eastern Europe’ in Lee M. (ed.), *Human Trafficking*, Willan Publishing 2007, pp. 92–116.

² Some academics do not agree with this principle, stating the thesis that an illegal migrant child, leaving his/her country because of the dream of a foreign land, paying a smuggler for a boat-trip, voluntarily working in one of the only sectors accessible to them and giving part of their income to a third person, is not a victim of trafficking: Oude Breuil B., ‘Bienvenue chez les grands! Border-Crossing of Young Migrant Cigarette Vendors in Marseille’ in Craig G., *Child slavery now. A contemporary reader*, The Policy Press 2010, pp. 189–203.

³ Art. 3 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>. UNODC, The role of consent in the trafficking in persons protocol, Vienna 2014, p. 7: ‘Consent, in the case of adults, is always irrelevant to determining whether the crime of human trafficking has occurred, whether means such as force or abduction are used, or whether more subtle means such as “abuse of a position of vulnerability” are used. In the case of children, consent is irrelevant regardless of whether any means were used or not.’ Available at: https://www.unodc.org/documents/human-trafficking/2014/UNODC_2014_Issue_Paper_Consent.pdf.

⁴ O’Connell Davidson J., ‘Telling Tales: Child Migration and Child Trafficking. Stories of Trafficking Obscure the Realities for Migrant Children. Child Abuse and Neglect’ *The International Journal*, 37 (2013), pp. 1069–1079, for this reference p. 1071.

⁵ ‘Sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; and trafficking in persons, especially women and children’, 18 July 2017, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/N1721883.pdf>.

child smuggling and trafficking.⁶ In accordance with the UN Convention against Transnational Organized Crime Trafficking Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, the key elements of human trafficking are: recruitment and facilitated movement of a person within or across national frontiers by means of coercion, threats or deception for the purpose of exploitation. Human smuggling, under the UN Convention against Transnational Organized Crime, Protocol against the Smuggling of Migrants by Land, Sea and Air, is the illegal movement of persons across international borders in order to obtain a financial benefit. Smuggling finishes when the person arrives at a destination while trafficking results in exploitation. Finally, trafficking is a crime against a victim whose rights were violated, and smuggling is a crime against the political interest of the state.

The chapter takes a new approach, because it reinterprets the understanding of national mechanisms established to combat child smuggling and trafficking on basis of the outcome of comparative analysis of nine Group of Experts on Action against Trafficking in Human Beings (GRETA) country reports and their interpretation in the light of above-mentioned international legal instruments.

It investigates and identifies what the existing challenges and obstacles are for the implementation of the legal framework by raising awareness, training professionals, working with childhood education, and by providing appropriate accommodation for children, adequate border measures, effective identification of child trafficking victims, legal guardianship, age assessment procedures and the criminalisation of child trafficking.

Based on existing empirical research, the author compares the situation in countries with the highest rate of child trafficking (the UK, Romania, Bulgaria), as well as in the most affected destinations (Sweden, Germany) and the most frequently used transit countries (Serbia, Italy). The Netherlands and France were also included in the comparative study due to their high rate of human trafficking.⁷

The Council of Europe Convention on Action against Trafficking in Human Beings provides that each state party to the Convention shall take specific measures to reduce children's vulnerability to trafficking and re-trafficking, in particular by creating a protective environment for them.⁸

⁶ See more: 'Introduction: Understanding human trafficking', Lee M., in Lee, *Human trafficking* (n. 1 above) pp. 1–26.

⁷ Research has been conducted on the basis of country reports provided by experts of the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA), available at: <https://www.coe.int/en/web/anti-human-trafficking/home>. To conduct this research, the author refers mainly to one source of information, the GRETA reports, which impose limits on this research.

⁸ There are, in particular, numerous general and specific international instruments protecting and combatting child smuggling and trafficking, which apply to the states that signed and ratified them: European Convention on Human Rights (Art. 4); Council of Europe Convention on

2. AWARENESS RAISING ON CHILD TRAFFICKING

National authorities in Europe have made available many mechanisms and tools in order to raise awareness that will contribute to the prevention and combatting of child smuggling and trafficking.

The role to be played by the state (national authorities), NGOs and other organisations should be clarified in the context of child trafficking. It is often the NGOs that act on the ground and that is good, in the sense that they probably have the right skills and know the terrain, but the prevention of trafficking still comes first and foremost from the obligations of the states. However, the NGOs must be supported, financially for example, by the state. Otherwise the state implicitly defers its responsibilities to other actors, private in particular, and completely discharges its obligations.

Three mechanisms will be analysed below: information campaigns, education and schooling and the training of legal professionals. As stated before, the information on the varying countries comes from the empirical research reports drafted by (GRETA).

2.1. INFORMATION CAMPAIGNS

According to GRETA information campaigns aimed at the competent institutions, relevant professionals, children – in particular those exposed to the risk of human trafficking – and their parents play an important role in the context of the prevention of and combatting child trafficking and smuggling.⁹ It has been suggested in the literature that effective intervention requires a multidisciplinary approach that brings different societal groups together – for example, social workers, doctors and lawyers – to facilitate the exchange of information about their experience with child victims of trafficking.¹⁰ However, the rest of society has to be informed in more general terms about the risks of child trafficking.

Action against Trafficking in Human Beings, Convention on the Rights of the Child (Art. 32); Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol); Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; EU Charter of Fundamental Rights (Art. 5); and Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combatting trafficking in human beings and protecting its victims. The author examined these instruments and chose to refer to the provisions of the Council of Europe Convention on Action against Trafficking in Human Beings.

⁹ Arts. 5 and 6, The Council of Europe Convention on Action against Trafficking in Human Beings, 2005, <https://rm.coe.int/168008371d>.

¹⁰ West A., Loeffler Diane N., 'Understanding Victim Resistance: An explanatory Study of the Experiences of Service Providers Working with Victims of Child Trafficking' 6(1) *Journal of Applied Research on Children: Informing Policy for Children at Risk*, TMC Library, 2015, p. 1.

On the one hand, these information campaigns develop the skills of each adult, so that they can better react when faced with child trafficking and identify a child victim of trafficking. On the other hand, a child who is aware can also defend him or herself when he or she is approached by a trafficker.¹¹

The term ‘child trafficking’ covers a wide range of child labour migration issues.¹² However, the perception of child trafficking in society is often very narrow and restricted to sex trafficking,¹³ in particular involving girls.¹⁴ This perception of child trafficking restricted to the sex trade is indirectly reinforced if the existing information campaigns focus only on child sexual exploitation and do not refer to other sectors of child exploitation.

Among bad practices, in Sweden, for example, there has been a lack of information campaigns on child trafficking for exploitation purposes other than sexual exploitation.¹⁵ However, making more information available to Swedish citizens, such as explaining that those who sexually exploit children abroad can be prosecuted in Sweden, has made Swedish society more aware and, at some point, has probably reduced future demand. In this country, there is also a lack of awareness on trafficking for the purpose of sexual exploitation of men and boys, particularly unaccompanied and separated migrants and asylum-seeking boys. There are other countries in which information campaigns do not exist at all. The last information campaign in Italy¹⁶ was organised in 2008. In France, despite a national plan of action against trafficking human beings, no national information campaigns have been organised. Some local initiatives have succeeded in publishing books, brochures and press articles¹⁷ on the prevention of trafficking of human beings.¹⁸

¹¹ Jovanovic J., *Challenges to Preliminary Identification of Romani ‘Victims of Trafficking’: The Serbian Case*, CEU Center for Policy Studies 2015, p. 24.

¹² Whitehead, A. and Hashim I., ‘Children and Migration Background paper for DfID migration team’, *Critical Social Policy* 2005, pp. 454–477.

¹³ Hynes P., ‘No Magic Bullets: Children, Young People, Trafficking and Child Protection in the UK’, *International Migration*, John Wiley and Sons Ltd. 2015; Van Reisen M., Stefanovic A., *Lost Kids, Lost Futures, The European Union’s Response to Child Trafficking*, International Federation Terre des Hommes 2004, p. 28.

¹⁴ Huijsmans R. and Baker S., ‘Child Trafficking: Worst Form of Child Labour or Worst Approach to Young Migrants?’ *Development and Change*, 43(4) (2012), p. 921.

¹⁵ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden, GRETA, March 2018, p. 16, available at: <https://rm.coe.int/greta-2018-8-fgr-swe-en/16808b1cd7>.

¹⁶ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy, GRETA, July 2014, p. 29, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631cc1>.

¹⁷ E.g. Gallini P., ‘Entre 100 et 200 esclaves enchainées dans la ville ?’ *La Provence*, Marseille, 7 May 2007.

¹⁸ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by France, GRETA, March 2017, p. 20, available at: <https://rm.coe.int/greta-2017-17-fgr-fra-en/16807454bf>.

There may be good practices established in countries where information campaigns are organised. Nationwide campaigns on child trafficking presumably change societal perception. In the Netherlands, a campaign about victims of human trafficking, called '*Schijn Bedriegt*' ('Appearances deceive'), aimed to raise awareness among the general public and more specifically among clients of prostitutes.¹⁹ In Serbia,²⁰ information is delivered by representatives of public institutions, trade unions, employers' associations and civil society for labour inspectors and representatives of institutions involved in the detection and prevention of child labour.²¹ In Bulgaria,²² a number of national and local commissions were organised to inform the general public and target groups about the risks of human trafficking, recruitment methods used by traffickers, ways for prevention and the criminalisation of the use of services of victims of trafficking. NGOs organised preventive activities for students and young people.²³ In Romania,²⁴ the National Agency Against Trafficking in Persons (ANITP)²⁵ and civil society are actively engaged in organising information campaigns.²⁶

Among other interesting awareness-raising initiatives, German facilitators have been appointed in counselling centres for immigrants to raise awareness and focus on the manifestations of human trafficking and victim support

¹⁹ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Netherlands, March 2014, GRETA, p. 32, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680632199>.

²⁰ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Serbia, November 2017, GRETA, p. 17, available at: <https://rm.coe.int/greta-2017-37-frg-srb-en/16807809fd>.

²¹ See also Awareness and the issue of trafficking in people and measures to be taken, in Trafficking in people in Serbia, OSCE 2004, pp. 208–235.

²² Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria, GRETA, November 2015, p. 17, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680630d6c>.

²³ The awareness-raising activities of the NGOs are most often based on funding by donors. Therefore, it happens that donors demand the creation of anti-trafficking projects based on their conceptualisation of human trafficking (Huijsmans R. and Baker S., 'Child Trafficking: Worst Form of Child Labour or Worst Approach to Young Migrants?', *Development and Change* 43(4) (2012), pp. 924–925).

²⁴ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania, GRETA, p. 13, July 2016, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806a99b1>.

²⁵ GRETA, Serbia (n. 20 above), 91 campaigns organised in 2012–13. The implementation of campaigns in Romania is classical (meetings, posters, flyers, audio-video spots, distribution of materials with anti-trafficking messages and information) and internet-based as using Facebook and online platforms.

²⁶ GRETA, Serbia (n. 20 above). The projects specifically target youth awareness of human trafficking through music, art, dance, film, animation, sport, creative and social media.

strategies.²⁷ In the UK, in partnership with the Border Force's Safeguarding and Trafficking Team, NGOs organised a day of activity at Heathrow Airport to raise awareness about child trafficking among support airport staff and passengers in order to detect and protect vulnerable children.²⁸

In conclusion, the existence of nationwide information campaigns on child smuggling and trafficking, such as those organised in the Netherlands, Serbia, Bulgaria, the UK, Germany and Romania is an appropriate measure in the quest to make society aware of the importance of the problem and to have a good perception of the character and scale of the phenomenon. This measure should be seen as good practice and implemented in other countries such as France, Sweden and Italy.

2.2. EDUCATION ON CHILD TRAFFICKING

Migrant children exposed to trafficking have often fled from war or from the poor and disadvantaged communities²⁹ in which they had been born. In this second case, most of them had no access to education or dropped out of school shortly before being trafficked.³⁰

The UN Convention on the Rights of the Child (UNCRC) establishes a right to education for each child.³¹ The European Court of Human Rights (ECtHR) has also highlighted the importance of education for children with an irregular status and the need to scrutinise strictly any restrictions on this right.³² Education as well as educational information campaigns to raise awareness of children and their close environment are strong preventive measures for vulnerable migrant children who are exposed to a risk of becoming child trafficking victims, are forced into criminality or are being radicalised.³³ The general education system

²⁷ Report submitted by the German authorities on measures taken to comply with the Committee of the Parties Recommendation CP(2015)2 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, GRETA, June 2017, p. 6, available at: <https://rm.coe.int/cp-2017-21-rr-deu-en-pdf/168073fdf2>.

²⁸ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, GRETA, July 2016, p. 30, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806abdc>.

²⁹ Rafferty Y., 'Child Trafficking and Commercial Sexual Exploitation: A Review of Promising Prevention Policies and Programs' *American Journal of Orthopsychiatry*, 83(4) (2013), pp. 559–575.

³⁰ Dottridge M., *Action to prevent child trafficking in South Eastern Europe. A preliminary assessment*, UNICEF & Terre des Hommes, Geneva, 2006.

³¹ Arts. 20 and 22 UN Convention on the Rights of the Child (UNCRC), 20 November 1989, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

³² *Ponomaryovi v. Bulgaria* App no. 5335/05, para. 57 (ECtHR, 21 June 2011).

³³ Communication from the Commission to the European Parliament and the Council. The protection of children in migration, 12 April 2017, <https://ec.europa.eu/home-affairs/>

plays an important role in raising awareness about human trafficking and discouraging future demand.³⁴ Most often, the information on human/child trafficking is included in primary and secondary school curricula, as a part of civic education, human rights, philosophy or history lessons.³⁵ Particular attention should be given to girls' participation in education and schooling, which is a protective factor for girls against gender-based violence and child trafficking.³⁶

Firstly, education should be provided in the countries of origin of the migrant children, because only peace and development are a solid foundation for a stable society and the rule of law.³⁷ Secondly, education should be provided in the country of arrival of minor migrants.

Across Europe, the provision of such education varies. Bulgaria,³⁸ Serbia³⁹ and Romania⁴⁰ provide positive examples of countries where educational programmes are implemented at schools. These programmes cover the topic of human trafficking. In France,⁴¹ the UK⁴² and Serbia⁴³ educational programmes are implemented by the NGOs. In the Netherlands⁴⁴ and in Germany,⁴⁵ similar education for children is provided in the shelters for child trafficking victims.

In contrast, Italy⁴⁶ and Sweden⁴⁷ have no materials for schoolteachers on the subject of human trafficking and it is not part of the national educational curricula.

Consequently, Italy and Sweden should establish educational programmes for children, including activities with a focus on child trafficking, taking examples of good practice where it exists in France, Romania, Bulgaria, Serbia, the Netherlands, the UK and Germany.

sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf.

³⁴ Arts. 12 and 16 The Council of Europe Convention on Action against Trafficking in Human Beings, 2005, <https://rm.coe.int/168008371d>.

³⁵ Arts. 5 and 6 The Council of Europe Convention on Action against Trafficking in Human Beings, 2005, <https://rm.coe.int/168008371d>.

³⁶ United Nations Development Fund for Women (UNIFEM), 'Investing in gender equality: Ending violence against women and girls', 2011, available at: <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A52017DC0211>.

³⁷ UN Security Council 8111th Meeting, Security Council Open Debate on Maintenance of international peace and security, Trafficking in persons in conflict situations, 21 November 2017.

³⁸ GRETA, Bulgaria (n. 22 above) p. 20.

³⁹ GRETA, Serbia (n. 20 above) pp. 16–17.

⁴⁰ GRETA, Romania (n. 24 above) p. 44.

⁴¹ GRETA, France (n. 18 above) p. 23.

⁴² GRETA, the UK (n. 28 above), p. 30.

⁴³ GRETA, Serbia (n. 20 above) pp. 16–17.

⁴⁴ GRETA, the Netherlands (n. 19 above), p. 5.

⁴⁵ GRETA, Germany (n. 27 above) p. 11.

⁴⁶ GRETA, Italy (n. 16 above) p. 29.

⁴⁷ GRETA, Sweden (n. 15 above) p. 19.

2.3. TRAINING OF PROFESSIONALS ON CHILD TRAFFICKING

The frontline practitioners working with child victims of trafficking, such as police officers and social workers, often lack awareness of the phenomenon of child trafficking. They might theoretically know the procedure, but they regularly have difficulty applying it in practice and identifying which indicators they should be looking for.⁴⁸

This lack of knowledge and practical skills of frontline practitioners could lead to wrong conclusions. For example, some cases of child victims of trafficking were hidden. By hidden cases, it should be understood that the officers working on the child trafficking cases, deliberately dissimulated them, because they did not give faith to the existence of child trafficking or because they did not wish to deal with the burden and difficulty of work in situations of occurrence of child trafficking. In the case of a 15-year-old child brought into a country to work in domestic servitude, the officers reported that the child is intelligent, manipulates the system and cannot be considered as a child victim of trafficking. In another case, a different professional reported that a young girl made pregnant by traffickers, became pregnant to extract money from those traffickers.⁴⁹ Some other practitioners treat cases of child victims of trafficking as hot-potato cases and pass them on to other agencies rather than identifying the child victims of trafficking.⁵⁰

The lack of coordination and cooperation at the national and international level among government officials, law enforcement officers, social workers and other practitioners, arising from lack of clear boundaries specifically in terms of roles and responsibilities is also an important obstacle to the smooth functioning of the system of child protection against child smuggling and trafficking.⁵¹

Taking all of the above into account, the persons concerned should be trained and guided to develop necessary knowledge and practical skills. Professionals working in government and nongovernment institutions and organisations do not know that they treat cases involving human trafficking because they do not have adequate information on the issues involved.⁵² Consequently, government officials are uninformed regarding the causes and consequences of trafficking,

⁴⁸ Warria A., Nel H., Triegaardt J., 'Challenges in Identification of Child Victims of Transnational Trafficking Practice', Practice, British Association of Social Workers, Taylor and Francis, Routledge, 2015, 27(5), p. 323.

⁴⁹ Pearce Jenny J., *Working with Trafficked Children and Young People: Complexities in Practice*, Oxford University Press 2011, p. 8.

⁵⁰ Ayeer P. and Preston-Shoot M. (eds.), *Children's Services at the Crossroads*, Russell House Publishing 2010.

⁵¹ Harvey J.H., Hornsby R.A., and Sattar Z., *Disjointed service: An English case study of multiagency provision in tackling child trafficking*, Oxford University Press 2015, p. 500.

⁵² Rafferty, 'Child Trafficking and Commercial Sexual Exploitation' (n. 29 above).

and thus the appropriate rights-based legal responses and the necessary actions and interventions are overlooked.⁵³ The training provided to a variety of professionals makes them recognise the signs of trafficking and enables them to detect children who are at risk of falling victim or are already in the process of being trafficked.⁵⁴

The training, apart from the relevant content, has to fulfil two conditions: choose the adequate methodology and involve persons really concerned. There are different good practices existing in all countries. In some of them, such as the Netherlands,⁵⁵ Italy,⁵⁶ Germany⁵⁷ and the UK,⁵⁸ law enforcement officers are trained on how to identify child victims of trafficking. In other countries, such as France,⁵⁹ Bulgaria⁶⁰ and Serbia,⁶¹ educational staff, teachers, school nurses and doctors become trainees on the development of skills that are necessary in order to identify children at risk. In Sweden, the National Board of Health and Welfare has developed well-based training and brochures on the risks of sexual exploitation, one of which focuses on children. The County Administrative Board of Stockholm (CABS) has cooperated with hotels and taxi companies to raise awareness among their staff on human trafficking.⁶²

In France, the Netherlands, Serbia, Italy, Germany, Romania, the UK, Sweden and Bulgaria, training on the identification of child victims of trafficking is provided to practitioners. The training should probably involve broader groups and involve, for example, law enforcement agents in France, Bulgaria and Serbia, where the priority is given to educational staff and teachers. It should stay regular to be effective instead of being a singular ad hoc activity.

3. PROCEDURES RELATED TO CHILD TRAFFICKING

The right to access the territory is not protected as such by international legal instruments. On the one hand, preventing access to territory, including via land

⁵³ Jordan A., 'Human rights or wrongs? The struggle for a rights-based response to trafficking in human beings' (2002) *Gender and Development*, 10, pp. 28–37.

⁵⁴ Arts. 5 and 29 The Council of Europe Convention on Action against Trafficking in Human Beings, 2005, <https://rm.coe.int/168008371d>; Security Council Resolution 2331(2016) on trafficking in persons in armed conflicts, available at: <https://www.refworld.org/docid/587f71514.html>; see also Global Report on Trafficking in Persons, Policy implications, UNODC, 2018, pp. 13–14, available at: http://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP_2018_BOOK_web_small.pdf.

⁵⁵ GRETA, the Netherlands (n. 19 above) pp. 26–28, 33.

⁵⁶ GRETA, Italy (n. 16 above) pp. 13–16.

⁵⁷ GRETA, Germany (n. 27 above) pp. 5, 8, 12.

⁵⁸ GRETA, the UK (n. 28 above) p. 16.

⁵⁹ GRETA, France (n. 18 above) p. 23.

⁶⁰ GRETA, Bulgaria (n. 22 above) p. 20.

⁶¹ GRETA, Serbia (n. 20 above) p. 18.

⁶² GRETA, Sweden (n. 15 above) p. 19.

borders, may engage state responsibility.⁶³ On the other hand, the state has to establish and implement immigration policies in order to protect safety and security.

Unaccompanied children, in particular child victims of smuggling and trafficking, should be promptly identified,⁶⁴ in order to have their rights effectively applied. Identification needs to take place as soon as an individual comes into contact with a state's authorities.

To accomplish the 'right of the child to preserve his or her identity',⁶⁵ it is necessary to identify first whether the person is a child or not. Ordinarily, the age assessment procedures consist of an interview with a child to estimate his/her psychological maturity and the examination of his/her physical appearance. There is no determinative examination for age currently available and there is no common agreement as to how to assess a person's age.⁶⁶

Child smuggling and trafficking is punishable under criminal law in the majority of European countries.

3.1. BORDER MEASURES TO PREVENT CHILD TRAFFICKING

There is no doubt that child trafficking is a human rights violation through exploitation, and child smuggling is a crime against the state.⁶⁷ The role of border guards and police officers as frontline practitioners to be in contact with migrant children is very important. Law enforcement officers, in particular border guards, perform border controls, implementing a state's immigration policies in order to protect safety and security.⁶⁸ In recent years, immigration policies have become more restrictive and the introduction of tighter border controls has led to the growth in the illegal market of clandestine migration services. The cruel reality of this situation is that an important number of refugee children are found dead, drowned, frozen to death in refrigerated lorries, suffocated in cargo containers or shot by police, because of border militarisation, asylum laws or deportations.⁶⁹ Other migrating children are at risk of rape or fall victim to

⁶³ *Hirsi Jamaa and others v. Italy* App no. 27765/09 (ECtHR, 23 February 2012).

⁶⁴ *Abdullahi Elmi and Aweys Abubakar v. Malta* App nos. 25794/13 and others (ECtHR, 22 November 2016).

⁶⁵ Art. 8 UNCRC.

⁶⁶ Refugee and migrant children, HELP online course, Council of Europe, available at: <http://help.elearning.ext.coe.int/course/index.php?categoryid=356&browse=courses&perpage=20&page=1>.

⁶⁷ Pearce, *Working with Trafficked Children and Young People* (n. 49 above) p. 10.

⁶⁸ Piotrowicz R., 'Irregular migration networks: The challenge posed by people traffickers to states and human rights' in *Irregular migration and human rights: Theoretical, European and International Perspectives*, Martinus Nijhoff Publishers 2004, pp. 137–159.

⁶⁹ O'Connell Davidson J., 'Telling Tales: Child Migration and Child Trafficking', *Child Abuse & Neglect* 37(13) pp. 1074–1075.

demands for sex from criminals or government officials in exchange for onward passage.⁷⁰ Finally, border guards do not always believe the stories told to them by migrating children: ‘The way the screening unit [...] interviews children means that they do not always disclose the information that professionals need in order to identify a child as trafficked.’⁷¹ Furthermore, they say: ‘We often hear the same story again and again and it is only if something is different about the case that trafficking is suspected.’⁷² The border measures are important, firstly, for safety and security, and, secondly, for the identification of child victims of trafficking.⁷³ The prevention of transnational trafficking through measures to detect possible victims at the border should also be applied without prejudice to international commitments in relation to freedom of movement.⁷⁴

In most of the countries, police or border guards are assigned to border controls. They are responsible for informing the competent immigration service if, at the border checkpoint, there is a suspicion that a child is a victim of trafficking. As an example of good practice, this system functions in France,⁷⁵ the Netherlands,⁷⁶ Serbia,⁷⁷ Sweden,⁷⁸ and the UK.⁷⁹ Sometimes, good initiatives are not effective. In Romania, a child travelling abroad without both parents must have a notarial certificate confirming consent for his/her travel given by the child’s parent remaining in Romania. However, the system does not efficiently prevent child trafficking, because it does not contain the expected date of return of the child, the child’s photograph and information in languages other than Romanian.⁸⁰

The GRETA report does not provide information on border measures on the prevention of human trafficking in Germany.⁸¹ In Italy,⁸² there are still failures in the mechanism of detecting and preventing human – and in particular child – trafficking through border control measures, which need to be improved.

⁷⁰ Ibid.

⁷¹ Hynes ‘No Magic Bullets’ (n. 13 above) p. 66.

⁷² Ibid., p. 66.

⁷³ *Antislavery, Trafficking for Forced Criminal Activities and Begging in Europe, Explanatory Study and Good Practice Examples*, September 2014, p. 94, available at: http://www.antislavery.org/wp-content/uploads/2017/01/trafficking_for_forced_criminal_activities_and_begging_in_europe.pdf; circumstances that point to trafficking crime potentially being committed: a person appears to be in control of another; using false identities and documents; a person is in possession of someone else’s identity documents; children travelling with adults who speak a different language or who are not their legal guardians.

⁷⁴ Art. 7 The Council of Europe Convention on Action against Trafficking in Human Beings, 2005, <https://rm.coe.int/168008371d>.

⁷⁵ GRETA, France (n. 18 above) p. 31.

⁷⁶ GRETA, the Netherlands (n. 19 above) pp. 35–36.

⁷⁷ GRETA, Serbia (n. 20 above) pp. 22–23.

⁷⁸ GRETA, Sweden (n. 15 above) p. 23.

⁷⁹ GRETA, the UK (n. 28 above) p. 35.

⁸⁰ GRETA, Romania (n. 24 above) p. 16.

⁸¹ GRETA, Germany (n. 27 above) p. 11.

⁸² GRETA, Italy (n. 16 above) p. 31.

In particular, they need to introduce a checklist,⁸³ which helps to identify child victims of smuggling and trafficking, for example by: conducting screenings of potential trafficking victims among those incarcerated and in immigration detention centres, as victims are sometimes incarcerated for crimes committed as a result of their trafficking; adopting programmes to screen vulnerable immigrant populations, including asylum seekers and unaccompanied children at borders, for indicators of human trafficking. Indicators such as these do exist, for example, in *Sweden*, during the visa application system. Here, training is being provided to relevant staff to help them detect possible human trafficking victims.

In conclusion, France, the Netherlands, Serbia, Romania, the UK, Sweden and Bulgaria have established border procedures in order to identify potential trafficking victims, including child trafficking victims. There is no information provided on specific border procedures against human trafficking in Germany. In Italy, the procedures are not effective and need to be reviewed in order to establish the indicators and checklists that will help to identify child trafficking victims at the Italian borders.

3.2. IDENTIFICATION OF CHILD VICTIMS OF TRAFFICKING

It is essential to identify child victims in order to combat child trafficking and prevent re-trafficking. However, the identification of child victims of internal and international trafficking is a very difficult task, and many victims are never identified.⁸⁴ This can be illustrated by the fact that even the victims themselves do not always understand that they are victims of trafficking. For this, they would need to know what is wrong and what is right, and have an understanding of life without abuse. In most of the cases, the children lack the emotional maturity to process the nature of the abuse which they are experiencing.⁸⁵ It happens also that the children are attached to traffickers and have formed a positive relationship with them.⁸⁶

The identification is most often made by law enforcement officers, in particular border and police officers, social workers and health professionals.

⁸³ See the example of 'Human Trafficking Protection Checklist established by the US', available at: <https://2009-2017.state.gov/documents/organization/259307.pdf>.

⁸⁴ Okech D., Morreau W., Benson K., 'Human trafficking: Improving victim identification and service provision', (2011) *International Social Work*, 55, pp. 488–503.

⁸⁵ West A., Loeffler Diane N., 'Understanding Victim Resistance: An explanatory Study of the Experiences of Service Providers Working with Victims of Child Trafficking' *Journal of Applied Research on Children: Informing Policy for Children at Risk*, 6(1) (TMC Library, 2015) p. 10.

⁸⁶ Cohen J., Mannarino A., Deblinger E., *Treating trauma and traumatic Grief in Children and Adolescents*, Guilford Press 2006.

It is a crucial step in helping trafficking victims to escape from the traffickers and restore their lives.

There are certain indicators that can serve to identify a child victim of trafficking. Firstly, situational indicators are contextual markers for human trafficking victims:⁸⁷ absence of documentation, the constant presence of another individual, signs of physical abuse, a lot of people living together or frequent changes of address. Secondly, story indicators may suggest the existence of trafficking.⁸⁸ Thirdly, emotional demeanour, including signs of fear or depression or a tendency to answer questions evasively, are all indicators of trafficking.⁸⁹ There is also little empirical understanding of how these indicators should be incorporated into the identification and the assessment process.⁹⁰

The additional difficulty in the formal identification of child trafficking is a hidden character of the crime.⁹¹ There are many stories in which the trafficking of a child does not come up in formal registers. For example, the employees of shelters for children understand well the issue of forced marriage or trafficking for marriage. However, the practice is that the girl is 'kept in a shelter for two months, until she has reached the age [for legal marriage]. She does not want to go back to her mom's; there she has to dumpster dive and here she cooks.'⁹²

In accordance with Article 10 of the Council of Europe Convention on Action against Trafficking in Human Beings,⁹³ the states should provide training and ensure that the relevant stakeholders, such as government officials, law enforcement officers and prosecutors, child specialists and child protection services take into account the special circumstances and needs of child victims of trafficking, and collaborate to identify these children. On the one hand, the identification of the victims of trafficking requires specialised training to ensure that, where a child is unable to explicitly articulate a concrete fear of trafficking, such risks are recognised, and protection provided without delay. On the other hand, the legislator should establish clear procedures to be followed

⁸⁷ Alvarez M.B., Alessi E.J., *Human trafficking is more than sex trafficking and prostitution: Implications for social work*, (2012) *Affilia* 27, pp. 142–152.

⁸⁸ Macy R.J., Graham L.M., 'Identifying domestic and international sex-trafficked victims during human service provision' (2012) *Trauma, Violence and Abuse* 13(2), pp. 59–76.

⁸⁹ Logan T.K., Walker R., Hunt G., 'Understanding human trafficking in the United States,' (2009) *Trauma, Violence and Abuse* 10(1), pp. 3–30; Hodge D.R., 'Assisting Victims of Human Trafficking: Strategies to Facilitate Identification, Exit from Trafficking and the Restoration of Wellness' *Social Work*, 4 April 2014, pp. 3–4.

⁹⁰ Rigby P., 'Separated and Trafficked Children: The challenges for Child Protection Professionals,' *Child Abuse Review*, 20 (2011) pp. 332–334.

⁹¹ *Ibid.*, pp. 332–334.

⁹² Jovanovic J., *Challenges to Preliminary Identification of Romani 'Victims of Trafficking': The Serbian Case*, CEU Center for Policy Studies; 2015, pp. 18–19.

⁹³ Also Art. 19 para. 2 UNCRC.

in cases in which suspected victims of child trafficking have been identified – the so-called National Referral Mechanism (NRM).⁹⁴

The NRM makes the identification more effective because the reporting procedure on the potential child victims of trafficking is clearer and faster. In a case in which the identification system is complex and bureaucratic, it ‘defeats the goal of finding and serving trafficked children, and the more pieces to a system, the more possible cracks for children to fall through.’⁹⁵ Sometimes, it happens that there are parallel systems of protection and identification making the whole process even less clear.⁹⁶ The lack of clear definitions in national legislations and large discretionary powers when identifying victims affects under-identification.⁹⁷

Examples of good practices are Sweden,⁹⁸ Romania,⁹⁹ Bulgaria,¹⁰⁰ the UK¹⁰¹ and the Netherlands.¹⁰² They have all established their own NRM. The main burden of identification of child victims of trafficking rests with law enforcement agencies in France,¹⁰³ the Netherlands,¹⁰⁴ Sweden,¹⁰⁵ Romania,¹⁰⁶ the UK,¹⁰⁷ Germany¹⁰⁸ and Bulgaria.¹⁰⁹ However, these countries could also improve and strengthen their compliance with international obligations in the prevention of child trafficking. For example, the UK should allow its medical staff to report directly any identified human trafficking victims.

⁹⁴ National Referral Mechanism (NRM) is a framework for identifying and referring potential victims of modern slavery and ensuring they receive the appropriate support, see the example of NRM established for the UK, available at: <https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/guidance-on-the-national-referral-mechanism-for-potential-adult-victims-of-modern-slavery-england-and-wales>.

⁹⁵ Goździak E.M., ‘Identifying child victims of trafficking. Towards solutions and resolutions’ *Criminology & public policy*, 9(2) (2010), pp. 245–255, for this reference p. 251.

⁹⁶ Nanou K., ‘Protecting children in migration in Europe, Alternatives to institutional care and detention’ *Public Policy Exchange*, 24 October 2018. To learn more about Eurochild, see: <https://www.eurochild.org>.

⁹⁷ Warria, Nel, Triegaardt, ‘Challenges in Identification of Child Victims of Transnational Trafficking Practice’ (n. 48 above) pp. 315–333.

⁹⁸ GRETA, Sweden (n. 15 above) p. 24.

⁹⁹ GRETA, Romania (n. 24 above) p. 21.

¹⁰⁰ GRETA, Bulgaria (n. 22 above) p. 29.

¹⁰¹ GRETA, the UK (n. 28 above) p. 41, See also Hynes, ‘No Magic Bullets’ (n. 13 above) p. 65.

¹⁰² GRETA, the Netherlands (n. 19 above) p. 57. See more for the National Referral Mechanism in the Netherlands, Implementation of anti-trafficking policy in the Netherlands, European Commission, available at: https://ec.europa.eu/anti-trafficking/member-states/netherlands-3-implementation-anti-trafficking-policy_en. Consequently, the author considers that the NRM has already been established in the Netherlands.

¹⁰³ GRETA, France (n. 18 above) p. 32.

¹⁰⁴ GRETA, the Netherlands (n. 19 above) p. 57.

¹⁰⁵ GRETA, Sweden (n. 15 above) p. 24.

¹⁰⁶ GRETA, Romania (n. 24 above) p. 21.

¹⁰⁷ GRETA, the UK (n. 28 above) p. 24.

¹⁰⁸ GRETA, Germany (n. 27 above) p. 12.

¹⁰⁹ GRETA, Bulgaria (n. 22 above) p. 29.

In Italy, the NRM is being established.¹¹⁰ The Italian authorities still need to introduce a clear NRM to provide frontline staff with operational indicators and training and to strengthen multi-agency involvement in victim identification, in order to ensure that they adopt a proactive and harmonised approach towards detecting and identifying victims of trafficking. Increased attention should be paid to detecting victims of trafficking among unaccompanied minors, irregular migrants and asylum seekers. The NRM does not exist in France,¹¹¹ Serbia¹¹² or Germany.¹¹³

In conclusion, the NRM has been established to identify the victims of human trafficking in Sweden, Romania, Bulgaria, the UK and the Netherlands. In Italy, the NRM is being established. Finally, this mechanism does not exist – and should be established – in three countries, more particularly France, Serbia and Germany.

3.3. AGE ASSESSMENT

In accordance with Article 8 of the UNCRC,¹¹⁴ states are obligated to respect a child's identity, and this can involve an age assessment based on the physical appearance of the child and his or her psychological maturity.¹¹⁵ According to the CRC Committee, this assessment should be conducted 'in a scientific, safe, child- and gender-sensitive and fair manner, avoiding any risk of a violation of the physical integrity of the child, and giving due respect to human dignity'.¹¹⁶ Under the European Convention on Human Rights (ECHR), the authorities should restrain from and prevent third persons from committing acts resulting in torture or inhuman or degrading treatment of children during age assessment procedures (Art. 3 ECHR). In parallel, the authorities can

¹¹⁰ GRETA, Italy (n. 16 above) p. 7; *Mutatis mutandis*: Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy, GRETA, January 2017, p. 6, <https://rm.coe.int/16806edf35>. See for more concerning the plan to establish the National Referral mechanism in Italy: https://ec.europa.eu/anti-trafficking/member-states/italy-3-implementation-anti-trafficking-policy_en.

¹¹¹ GRETA, France (n. 18 above) p. 32.

¹¹² GRETA, Serbia (n. 20 above) pp. 33–34.

¹¹³ GRETA, Germany (n. 27 above) p. 12.

¹¹⁴ Art. 8 UNCRC.

¹¹⁵ UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum, February 1997, para. 5.11.; General Comment No. 6 (2005), Treatment of unaccompanied and separated children outside their country of origin, Committee on the Rights of the Child, Thirty-ninth session, 17 May–3 June 2005, p. 10, available at: <https://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>.

¹¹⁶ UN Convention on the Rights of the Child, General Comment No. 6 (2005): Treatment of unaccompanied and separated children outside their country of origin, UN Doc. CC/GC/2005/6, 1 September 2005, (V)(a)(31)(A).

legitimately interfere with a child's right to privacy and conduct age assessments if, in accordance with the law, it is necessary to protect one of the legitimate aims stated in Article 8 paragraph 2 of the ECHR.¹¹⁷ A child should be informed that an age assessment will be carried out in a language that he or she understands. Furthermore, his or her consent should be obtained before any examination is done.¹¹⁸

In accordance with Article 10 paragraph 3 of the Council of Europe Convention on Action against Trafficking in Human Beings, the states should establish special protection measures pending verification of the victim's age when the age of the victim is uncertain. Furthermore, he or she shall be presumed to be a child until his or her age has been assessed. Benefit of the doubt should be applied in such a manner that, in a case of uncertainty, the individual will be considered to be a child. Given that the consequences of an erroneous assessment may lead to children being placed in accommodation with adults with potentially heightened risks of trafficking or re-trafficking, an age assessment is critical to effective protection.

According to GRETA reports, there is significant variation in the nature and scope of age assessment procedures in European countries.

Firstly, among good practices, there are countries such as France,¹¹⁹ the Netherlands,¹²⁰ Bulgaria,¹²¹ Italy,¹²² Sweden¹²³ and the UK,¹²⁴ which have established age assessment procedures. An interview aims to assess the physical appearance and the maturity of a child. If the age cannot be confirmed in this way, a medical test is done through an age assessment method based on the making and appraisal of one X-ray of the left hand and wrist and three X-rays of the medial clavicular epiphyses, which is an end of the long bone that serves as a strut between the shoulder blade and the breastbone. The extent to which the epiphyses in these bones have disappeared determines the skeletal age of the young person in question. For example, in the Netherlands, the closure of the

¹¹⁷ 'Migration and asylum' in *Handbook on European law relating to the rights of the child, migration and asylum*, FRA, ECtHR, Council of Europe, 2014, pp. 167–169.

¹¹⁸ As required in accordance with Art. 25(5) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ 2013 L180/60, Art. 25(5), available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013L0032>.

¹¹⁹ GRETA, France (n. 18 above) p. 43.

¹²⁰ Keunen A.M., Roscam Abbing H.D.C., Schumacher J.H., 'Age assessment of unaccompanied minor asylum seekers in the Netherlands, Radiological examination of the medial clavicular epiphysis' Dutch Association of Age Assessment Researchers, p. 10, available at: <http://scep.sitespirit.nl/images/21/266.pdf>.

¹²¹ GRETA, Bulgaria (n. 22 above) p. 33.

¹²² GRETA, Italy (n. 16 above) p. 35.

¹²³ GRETA, Sweden (n. 15 above) p. 31.

¹²⁴ GRETA, the UK (n. 28 above) p. 54.

radius of the left hand had previously been assumed to correspond to a minimum age of 15 in girls and of 16 in boys; these lower limits have now been reduced to 12.9 years in girls and 14.5 years in boys.¹²⁵ There are still challenges with age assessment even in these countries. In Bulgaria, age assessment procedures exist in practice, but should now be established in legislation. In France, a number of NGOs have emphasised that a worrying number of Nigerian girls were victims of sexual exploitation without having been identified as such by the police on the ground, partly because they claimed to be adults. In accordance with French law, if these girls claim to be adults, the authorities cannot further verify the age of these girls and protect them against exploitation by traffickers. The societal reality of these adolescents is very difficult in the context of age assessment and its consequences; it is well illustrated by Oude Breuil:

‘[...] in Marseille these “border controls” are exercised directly on young migrants’ bodies. Their bodies are used in legal procedures as medical sites from which to gather evidence against their own claims to their identity. Skeletal tests inscribe the selective truth of French or Marseille politics in young migrants’ bodies and point out on which side of the border they belong: “child” or “adult”, “deserving” or “underserving”, “in need of protection” or “to be protected against.” By using medical knowledge, the low position in the societal hierarchy of young migrant cigarette vendors is exposed and they are appointed their “proper” place in the societal universe: the general message is, “go back home, we do not want you here.”’¹²⁶

In the UK,¹²⁷ whenever there are reasonable grounds to believe that the person has not reached 18 years of age, until an age assessment has been carried out, there is a presumption that a possible victim is under 18 years of age. If it comes to an age assessment medical examination, dental and bone age testing is carried out by a small number of physicians and dentists who are contracted and paid by the government. In the UK, there were several cases in which Vietnamese nationals were held at an immigration centre on the basis of having allegedly received incorrect age assessments and despite having shown clear signs of having been trafficked.¹²⁸

Secondly, bad practices in Germany, Serbia and Romania are among those pointed out in GRETA reports. In Germany,¹²⁹ though they might have

¹²⁵ See more for medical explanation of this change: Keunen, Roscam Abbing, Schumacher, ‘Age assessment of unaccompanied minor asylum seekers in the Netherlands’ (n. 120 above).

¹²⁶ Oude Breuil B., ‘Bienvenue chez les grands! Border-Crossing of Young Migrant Cigarette Vendors in Marseille’ in Craig G., *Child slavery now. A contemporary reader*, The Policy Press 2010, pp. 189–203.

¹²⁷ GRETA, the UK (n. 28 above) p. 54.

¹²⁸ Age assessment practices: a literature review & annotated bibliography, Smith T., Brownlees L., UNICEF, 2011, p. 27, available at: https://www.unicef.org/protection/Age_Assessment_Practices_2010.pdf.

¹²⁹ GRETA, Germany (n. 27 above) p. 14.

considerable importance, the 'age assessments' are often based on quick visual appraisals during the interview process for asylum-seeking children.¹³⁰

In Serbia,¹³¹ there is no formalised age assessment procedure. If the age of a person is not known, but there are reasons to believe that he or she has not reached 18, there is a presumption that the person is a child. In Romania,¹³² if the age of the victim is not known and when there are reasons to suspect that the victim is a child, the Romanian authorities have indicated that it will be assumed that the person is a child and he or she shall be granted specific protection measures. The Romanian authorities have explained that, because of the very low number of identified foreign victims of human trafficking in Romania, there has never been a situation of doubt as regards a trafficking victim's age. The fact that the age determination process leaves room for informal assessment based on physical appearance, performed by untrained administrative or social staff out of their sphere of competence, is a reason why the age assessment procedures should be formalised in these countries. In the frame of asylum procedure, this age assessment acts against a child, who is beneficiary of presumption of minority. In the context of trafficking, the age assessment procedure is supposed to prove that the person is a minor and to guarantee a stronger protection by the state.¹³³

France, the Netherlands, the UK, Bulgaria, Sweden, and Italy have established a medical examination based on dental and bone testing for the age assessment of unaccompanied presumed minors. In Germany, clear guidelines are necessary for age assessment procedures. In Serbia and Romania there are no established age assessment procedures and it would be good for them to be implemented.

3.4. CRIMINALISATION OF CHILD TRAFFICKING AND RELATED OFFENCES

As 'certainty of punishment is more important than its severity [...]'¹³⁴ prosecuting presumed traffickers and those who exploit children is a strong preventive measure against child trafficking.¹³⁵

¹³⁰ Feltz V., Age assessment for unaccompanied minors, Doctors of the World, 2015, p. 8, available at: <https://mdmeuroblog.files.wordpress.com/2014/01/age-determination-def.pdf>.

¹³¹ GRETA, Serbia (n. 20 above) p. 30.

¹³² GRETA, Romania (n. 24 above) p. 27.

¹³³ There are recent trends towards rejecting medical age assessment procedures conducted by X-ray of the wrist as not sufficiently precise, see Observatoire romain du droit d'asile et des étrangers, 'Réfugiés mineurs traités comme des adultes : la Société suisse de pédiatrie dénonce les examens médicaux de détermination de l'âge', 2 June 2017, available at: <https://odae-romand.ch/breve/refugiés-mineurs-traités-comme-des-adultes-la-société-suisse-de-pédiatrie-dénonce-les-examens-médicaux-de-détermination-de-l'âge/>.

¹³⁴ Beccaria, (1963) in Meehl P., *Selected Philosophical and Methodological Papers*, University of Minnesota Press 1991.

¹³⁵ Hughes D.M., *Best practices to address the demand side of sex trafficking*, 2004, available at: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.523.2857&rep=rep1&type=pdf>;

In accordance with Article 18 of the Council of Europe Convention on Action against Trafficking in Human Beings, each state party shall adopt such legislative and other measures as may be necessary to establish human trafficking as a criminal offence.¹³⁶ The states should also expand criminal sanctions on persons and businesses commercialising trans-border child sexual services¹³⁷ or for other forms of trans-border child exploitation, for example, forced labour.¹³⁸

The states which are covered by the comparative study: France,¹³⁹ Germany,¹⁴⁰ Bulgaria,¹⁴¹ Romania,¹⁴² the UK,¹⁴³ the Netherlands,¹⁴⁴ Sweden,¹⁴⁵ Serbia¹⁴⁶ and Italy¹⁴⁷ have criminalised human trafficking and related offences. In all of these countries, there is a mechanism established to allow the trafficking victim to claim compensation. In some countries, such as Bulgaria,¹⁴⁸ it is already a criminal offence to use the services of trafficking victims if it is known that the person is a trafficking victim,¹⁴⁹ while other countries have changed their legislation in order to criminalise such acts. This is the case for Italy¹⁵⁰ and the Netherlands.¹⁵¹

However, firstly, the collection of data¹⁵² and bringing to justice of criminals is very difficult and the rate of prosecutions stays globally very low.¹⁵³

a contrario the prosecution of child victims of trafficking is a completely different subject; concerning minors exploited for forced criminality, see e.g. Rapport Uitbuiting van minderjarigen in de criminaliteit in Nederland, onderzoek naar de signalering van kinderhandel, de aanpak en de samenwerking door professionals, Faculty of Law, Economics and Governance, Utrecht University, available at: <https://www.rijksoverheid.nl/documenten/rapporten/2016/12/14/tk-bijlage-definitieve-rapportage-uitbuiting-van-minderjarigen-in-de-criminaliteit-in-nl>, pp. 132–133.

¹³⁶ See also Arts. 18, 19 and 20 of the Council of Europe Convention on Action against Trafficking in Human Beings; Arts. 1, 3 and 4 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; Art. 5 EU Charter of Fundamental Rights; Art. 4 European Convention on Human Rights.

¹³⁷ Rafferty, 'Child Trafficking and Commercial Sexual Exploitation' (n. 29 above).

¹³⁸ Zerfata E., 'Human trafficking in Malta' Agenzija Appogg, FSWS, Presentation at Public Policy Exchange, Brussels, 24 October 2018.

¹³⁹ GRETA, France (n. 18 above) p. 58.

¹⁴⁰ GRETA, Germany (n. 27 above) p. 2.

¹⁴¹ GRETA, Bulgaria (n. 22 above) pp. 38–39.

¹⁴² GRETA, Bulgaria (n. 22 above) pp. 34–36.

¹⁴³ GRETA, the UK (n. 28 above) pp. 65–71.

¹⁴⁴ GRETA, the Netherlands (n. 19 above) p. 25.

¹⁴⁵ GRETA, Sweden (n. 15 above) pp. 39–40.

¹⁴⁶ GRETA, Serbia (n. 20 above) pp. 35–38.

¹⁴⁷ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy, GRETA, January 2017, p. 6, <https://rm.coe.int/16806edf35>.

¹⁴⁸ GRETA, Bulgaria (n. 22 above) p. 9.

¹⁴⁹ Art. 19 The Council of Europe Convention on Action against Trafficking in Human Beings.

¹⁵⁰ GRETA, Italy (n. 16 above) p. 30.

¹⁵¹ GRETA, the Netherlands (n. 19 above) p. 51.

¹⁵² *Child trafficking in Europe: The State of Play, Lost kids, lost futures, The European Union's Response to Child Trafficking*, 'International Federation Terre des Hommes' pp. 11–15;

Consequently, involvement in child trafficking criminal groups is not very risky, and even when there has been an investigation, more often than not, the outcome is negative, leading to the traffickers being acquitted. Even if traffickers are sentenced, the prison sentences are short and the imposed fines are low.¹⁵⁴

Secondly, public perception of child trafficking and exploitation plays an important role. Sex tourists are rarely prosecuted in their own countries and they feel unpunishable if their country of origin does not criminalise the use of child sexual services made abroad.¹⁵⁵ Sweden is an example of a country which has criminalised the use of child sexual services by its own citizens in other countries.¹⁵⁶

Thirdly, practitioners, including law enforcement officers, facing the problem of child trafficking, sometimes think that victims willingly participate in this activity and no crime has been committed.¹⁵⁷ As mentioned in section 2.3, this lacuna can be aligned or eliminated if relevant training is provided to concerned practitioners.

Finally, massive corruption undermines the capacity of the legal system, because police, border officers and customs officials might have been bought by smugglers and traffickers.

In conclusion, child trafficking is a criminal offence and punishable with a criminal sanction in all nine examined countries. However, taking account of the transnational character of child trafficking, low detectability of this crime, high level of corruption and its wrong perception in society, the law enforcement policies should be reinforced by, for example, establishing more effective and detailed databases, and increasing the number of border and police officers allocated to pursue trafficking crimes.

4. ASSISTANCE TO CHILD VICTIMS OF TRAFFICKING

An adequate standard of living means that, at a minimum, every child should have access to some basic means of subsistence including water, food and shelter

Piotrowicz R., 'Trafficking of human beings and their human rights in the migration context' in *International migration law. Developing paradigms and key challenges*, Cholewinski R., Perruchaud, MacDonald E. (eds.), IOM 2007, pp. 275–291.

¹⁵³ Hill A., Carey R., 'The trade in human lives' (2010) *Americas Quarterly*, 4(2), pp. 84–89.

¹⁵⁴ Shelley L., 'Human trafficking as a form of transnational crime' in Lee, *Human trafficking* (n. 1 above) pp. 116–137.

¹⁵⁵ Andrews S., 'United States domestic prosecution of the American international sex tourist: Efforts to protect children from sexual exploitation' *The Journal of Criminal Law and Criminology*, 94 (2004) pp. 415–454.

¹⁵⁶ GRETA, Sweden (n. 15 above) p. 16.

¹⁵⁷ Shelley, 'Human trafficking as a form of transnational crime' (n. 154 above) 137.

under conditions of dignity. In all cases, housing in temporary shelters is a sustainable solution only if a child is to be relocated in a reasonable time.¹⁵⁸ Each child should be housed with its family unless it is against the child's best interest¹⁵⁹ or foster care if a child has no own family. In the context of migration, it is particularly important that, in the light of the right to liberty¹⁶⁰ read together with the principle of the best interests of the child¹⁶¹ and the right to development¹⁶² children should never be detained. The detention of a child is not prohibited under human rights law if substantial and procedural safeguards are met. There is, however, broad international consensus that the detention should not be applied to refugee and migrant children, in particular victims of child smuggling and trafficking. Unfortunately, there are still situations in which migrant children are detained.¹⁶³

The states have a responsibility to look after the unaccompanied children and appoint, without undue delay, a legal guardian to represent the child in all necessary procedures and life situations. Lack of compliance with this human right standards can result e.g. in violation of provisions of the ECHR.¹⁶⁴

4.1. ACCOMMODATION OF CHILD VICTIMS OF TRAFFICKING

The right to an adequate standard of living is a fundamental right of all children. The states have an obligation to take adequate measures to assist child trafficking victims. In particular, the states need to develop necessary legislation, adopt administrative measures and establish judicial mechanisms, in order to place child trafficking victims in appropriate and secure accommodation.¹⁶⁵

According to the UN Human Rights Office of the High Commissioner (OHCHR), housing assistance, food stamps and other support programmes are either not available or are limited, temporary or dependent on a child's migration status.¹⁶⁶

¹⁵⁸ *DCI v. the Netherlands* App no. 47/2008 (ECSR, 20 October 2009).

¹⁵⁹ *Tarakhel v. Switzerland* App no. 29217/12 (ECtHR, 4 November 2014); *DCI v. Belgium* App no. 69/2011 (ECSR, 23 October 2012).

¹⁶⁰ Art. 37 UNCRC.

¹⁶¹ Art. 3 UNCRC.

¹⁶² Art. 6 UNCRC.

¹⁶³ *Mohamad v. Greece* App no. 70586/11 (ECtHR, 11 December 2014).

¹⁶⁴ *Rahimi v. Greece* App no. 8687/08 (ECtHR, 5 April 2011).

¹⁶⁵ Art. 12 of the Council of Europe Convention on Action against Trafficking in Human Beings, 2005, <https://rm.coe.int/168008371d>.

¹⁶⁶ 'The right to an adequate standard of living, including housing, water and sanitation, and food' in *The economic, social and cultural rights of migrants in an irregular situation*, OHCHR, p. 60–80, available at: https://www.ohchr.org/Documents/Publications/HR-PUB-14-1_en.pdf; see also Kulu-Glasgow I., Noyon S.M., Smit M., Unaccompanied minor

Separated accommodation should be established for vulnerable migrant children, because it protects them from abuse, smuggling and trafficking by foreign adults if these children are placed in common shelters with them. Such separated accommodation is available for children in France,¹⁶⁷ Sweden,¹⁶⁸ the UK,¹⁶⁹ the Netherlands¹⁷⁰ and Italy.¹⁷¹

In the UK, unaccompanied minors are placed in a different kind of accommodation, in particular residential care homes, shared flats and houses, bedsits, bed and breakfast emergency housing and foster care. Children over 16 are placed in semi-independent accommodation. There is a lack of special accommodation for child victims of trafficking. Undocumented, unaccompanied minors are not registered, and that is why 60% of children go missing, among them children going missing in one part of the UK and exploited in another part of the UK.¹⁷²

In the Netherlands,¹⁷³ after an interview with the police, the Nidos Foundation provides guardianship for unaccompanied minors. These minors are placed in protected shelters, where they receive special guidance and support, and are informed of the risks linked to trafficking. The children stay under supervision in the shelter, but they can leave shelters with a supervisor, and outside programmes are organised for them. The minors received in the shelter fill in special forms with detailed personal information in case the minor goes missing.¹⁷⁴

There is a lack of places for children in the shelters in France and in Italy. They stay outside at night or they are even detained,¹⁷⁵ such as happens in Romania¹⁷⁶ and Bulgaria.¹⁷⁷ In certain exceptional cases, under Rule 39,¹⁷⁸ the ECtHR has ordered interim measures in order to ensure that asylum-seeking families are provided with shelter while their claims before the ECtHR are pending.¹⁷⁹

asylum seekers in the Netherlands: choice or chance?, Wetenschappelijk Onderzoek-en Documentatiecentrum Ministrie van Justitie en Veiligheid, Cahier 2018–18, p. 21.

¹⁶⁷ GRETA, France (n. 18 above) p. 25.

¹⁶⁸ GRETA, Sweden (n. 15 above) p. 18.

¹⁶⁹ GRETA, the UK (n. 28 above) p. 51.

¹⁷⁰ GRETA, the Netherlands (n. 19 above) p. 17.

¹⁷¹ GRETA, Italy (n. 16 above) pp. 31–32.

¹⁷² GRETA, the UK (n. 28 above) p. 51.

¹⁷³ GRETA, the Netherlands (n. 19 above) p. 17.

¹⁷⁴ Verstegen T, 'Towards a European Guardianship Network' Public Policy Exchange, 24 October 2018. To learn more about the Nidos Foundation, see: <https://www.nidos.nl>.

¹⁷⁵ *Migration and International Human Rights Law*, Practitioners Guide No. 6, International Commission of Jurists, Geneva, 2011.

¹⁷⁶ GRETA, Romania (n. 24 above) p. 25.

¹⁷⁷ GRETA, Bulgaria (n. 22 above) p. 28.

¹⁷⁸ Rules of the Court, 1 August 2018, https://www.echr.coe.int/Documents/Rules_Court_ENG.pdf.

¹⁷⁹ 'Housing,' *Handbook on European law relating to asylum, borders and immigration*, FRA, ECtHR, Council of Europe, 2014, pp. 198–203.

The European Committee of Social Rights (ECSR) has stated that, if the enforcement of a right is particularly complex or expensive, steps must be taken in order for states to realise the right within a reasonable time, with measurable progress, whilst prioritising the needs of the most vulnerable.¹⁸⁰

Once placed in residential or closed-type institutions, migrant minors, in particular unaccompanied minors¹⁸¹ such as orphans, neglected or abused children and children in conflict with the law, still represent a group which is particularly vulnerable to human trafficking during and after their placement in competent institutions.¹⁸² Among bad practices, one is the placement of children in common accommodation with adults, exposing them to a higher risk of becoming a victim of trafficking. This is the situation in Serbia,¹⁸³ Bulgaria,¹⁸⁴ Romania¹⁸⁵ and Germany.¹⁸⁶

Eurochild,¹⁸⁷ which is an NGO of organisations and individuals working in and across Europe to promote the rights and well-being of children and young people, considers that alternative measures to detention for migrant children and deinstitutionalisation can improve the situation. They understand it as the transformation of national structures for the protection of children, in order to create necessary and suitable alternative care solutions for children unable to stay with their biological families. This vulnerability also persists when young people leave such institutions after their coming of age.

In conclusion, Serbian, Bulgarian, Romanian and German authorities place minors in the same accommodation as adults. Consequently, they should take measures to improve the situation and adapt the accommodation. In France, Sweden, the UK, the Netherlands and Italy, there is separated accommodation for children. However, there is a lack of places for children in the shelters in France and Italy, and it is crucial that places are urgently created for children who risk spending the night outside or under detention.

¹⁸⁰ *Defence for Children International (DCI) v. Belgium*, no. 69/2011, ECSR, paras. 70–73.

¹⁸¹ See also Thematic Report on migrant and refugee children prepared by the Special Representative of the Secretary General on migration and refugees, SG/Inf(2017)13, 10 March 2017, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806fdd08; Recommendation 1985 (2011), 'Undocumented migrant children in an irregular situation: a real cause for concern', 7 October 2011, available at: <http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=18041&lang=en>.

¹⁸² In a situation of migrant children, these rights are also recognised in Art. 20 UNCRC.

¹⁸³ GRETA, Serbia (n. 20 above) p. 18.

¹⁸⁴ GRETA, Bulgaria (n. 22 above) p. 28.

¹⁸⁵ GRETA, Romania (n. 24 above) p. 25.

¹⁸⁶ GRETA, Germany (n. 27 above) p. 25.

¹⁸⁷ Nanou K., 'Protecting children in migration in Europe' (n. 96 above). To learn more about Eurochild, see <https://www.eurochild.org>.

4.2. LEGAL GUARDIANSHIP FOR UNACCOMPANIED CHILDREN

Unaccompanied children arriving in Europe are deprived of their family environment and they have limited legal capacity. They do not have parents or they are separated from their parents, so their interests are not defended by them. That is why their rights should be defended by an independent person¹⁸⁸ who can safeguard the child's best interests and his or her general well-being.

If neither parent nor other family members can be found, the child should be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason. The CRC Committee has explained that this means that states are required to create the underlying legal framework in order to take necessary measures to secure proper representation of an unaccompanied or separated child's best interests, in particular in asylum proceedings. This means appointing a legal guardian who should be consulted and informed regarding all actions taken in relation to the child.¹⁸⁹ The guardian protects the child's best interests in different areas covered by the ECHR. For example, child protection against inhuman or degrading treatment (Article 3), appealing a detention order against a child (Article 5 paragraph 4), or tracing a child's family in order to facilitate family reunification (Article 8).¹⁹⁰ Unaccompanied children's rights are also protected by the Asylum Procedures Directive, which implements a child's right to asylum and protects his or her best interests.¹⁹¹

In the context of child victims of trafficking, Article 10 paragraph 4a of the Council of Europe Convention on Action against Trafficking in Human Beings obligates national authorities to provide a child victim of trafficking with a legal guardian, an organisation or an authority which shall act in the best interests of the child.¹⁹² The timely appointment of a legal guardian who can act independently with authority and uphold the child's best interests is

¹⁸⁸ On regular and independent check-ups of the legal guardians, see e.g. Resolution 1810 (2011), Unaccompanied children in Europe: issues of arrival, stay and return, Parliamentary Assembly 15 April 2011, available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17991&lang=en>.

¹⁸⁹ UN Convention on the Rights of the Child, General Comment No. 6 (2005) para. 33.

¹⁹⁰ The *per se* non-appointment of the guardian was sanctioned by the ECtHR in *Rahimi v. Greece*, 5 April 2011, no. 8687/08 (Art. 3 and 5 ECHR); and the ECSR, *European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France*, 24 January 2018, no. 114/2015 (Art. 17(1) ESC).

¹⁹¹ As required in accordance with Art. 25 Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ 2013 L180/60, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013L0032&from=EN>.

¹⁹² In a situation of migrant children, these rights are also recognised in Art. 20 and 22 UNCRC.

essential for ensuring the protection and rehabilitation of unaccompanied children who are identified as victims of trafficking, breaking the links with traffickers and minimising the risk of children going missing. In countries of origin, the appointment of legal guardians to child victims of trafficking who cannot be returned to their families because the families were involved in the trafficking is an important factor for minimising the risk of re-trafficking and supporting the child's integration.¹⁹³ Most countries' legislation provides for the appointment of legal guardians to child victims of trafficking, but the procedure is cumbersome, there are delays in the guardians' appointment and the guardians often cannot be seen as being independent and acting in the best interests of the child. They cannot provide legal advice and protect the rights of such children because of the nature of their responsibilities and/or due to the fact that they do not have legal training.

Good practices exist in many countries in Europe. France, Germany,¹⁹⁴ the Netherlands, Serbia, Italy and Sweden have established systems of legal guardianship for unaccompanied minors. These systems are, however, very diverse and it is worth looking more closely at some of them. In France,¹⁹⁵ the cases of unaccompanied minors are notified by police to the public prosecutor, who takes the decision on appropriate protection measures. Child trafficking victims are placed under the general child protection framework of the departmental councils and child welfare services. If there is no person with parental authority, an ad hoc administrator is appointed without delay to protect the best interests of the child. In the Netherlands,¹⁹⁶ unaccompanied minors must be under guardianship. The minors who apply for asylum without a parent in the Netherlands are placed under temporary guardianship of the Nidos Foundation. In Serbia,¹⁹⁷ guardians for unaccompanied minors are assigned from among staff of the competent centres for social work. However, the centres are understaffed and lack human resources. That is why it can happen that 50 children are under the legal guardianship of one person. In Sweden,¹⁹⁸ unaccompanied children, without a residence permit, are provided with a *guardian ad litem* ('god man'). If a child is granted asylum in Sweden, a specially appointed custodian will normally be appointed instead of the *guardian ad litem*. Some *guardians ad litem* are responsible for too many children, others are appointed with considerable delays, limiting their capacity to safeguard the best interests of the child. Communication between guardians and migrant children is sometimes limited because of the low quality of interpretation in Sweden. In Italy,¹⁹⁹ the mayor in

¹⁹³ Rap S., Buddenbaum M., *Lost in migration*, Missing Children Europe 2018, pp. 31–34.

¹⁹⁴ GRETA, Germany (n. 27 above) p. 14.

¹⁹⁵ GRETA, France (n. 18 above) p. 42.

¹⁹⁶ GRETA, the Netherlands (n. 19 above) pp. 40, 43, 48.

¹⁹⁷ GRETA, Serbia (n. 20 above) p. 18.

¹⁹⁸ GRETA, Sweden (n. 15 above) p. 29.

¹⁹⁹ GRETA, Italy (n. 16 above) p. 38.

the place of arrival of unaccompanied minors must appoint a temporary legal guardian before the child is transferred to the relevant accommodation centre.

In Romania, Bulgaria, and the UK there is no legal guardianship system for unaccompanied minors. There are some other forms of legal representatives for children. In Bulgaria,²⁰⁰ the Law on Asylum and Refugees provides that if the child does not have an appointed guardian, it shall be represented by the Agency for Social Assistance. The director of the local Social Assistance Directorate appoints a social worker who is personally responsible for the child and acts as his or her legal representative in administrative proceedings. The social worker's legal representation is limited to the application for international protection and does not guarantee that unaccompanied minors exercise their rights to education or health care. In the UK,²⁰¹ there is no system of legal guardianship applying across the UK. In England and Wales, to represent and support children who are possible victims of human trafficking, there are independent child trafficking advocates. In Romania,²⁰² the General Directorate for Social Assistance and Child Protection (GDSACP) designates an educated and qualified person with legal or social assistance experience for the entire duration of the refugee status application process. A private body authorised to support children's rights may also be assigned.²⁰³

In conclusion, in France, Germany, the Netherlands, Serbia, Italy and Sweden, there is an established system of legal guardianship for unaccompanied minors. However, the number of legal guardians is often very limited, such as in Serbia. Among the obstacles to the effective functioning of legal guardianship, is the long time it can take to appoint a legal guardian, and the low quality of the translation provided for communication between a child and the guardian. This is the case in Sweden. In Romania and Bulgaria, there is no legal guardianship system for unaccompanied minors. There are some other forms of legal representation for children. These legal representatives have limited power and cannot always act in the best interests of the child. All delays in appointment, and the lack of a guardian for a child, make the child more vulnerable to becoming a victim of trafficking.

5. CONCLUSION

As a result of the refugee crisis of the past years, there are a considerable number of migrant children, and they often travel unaccompanied or become separated

²⁰⁰ GRETA, Bulgaria (n. 22 above) p. 32.

²⁰¹ GRETA, the UK (n. 28 above), p. 53.

²⁰² GRETA, Romania (n. 24 above) p. 27.

²⁰³ Synthesis Report, Overview of guardianship systems for unaccompanied minor asylum-seekers in Central Europe, IOM, 2012, available at: <https://kids empowerment.org/overview-of-guardianship-systems-for-unaccompanied-minor-asylum-seekers-in-central-europe>.

during their journey. This means that they become exposed to the risk of being exploited by smugglers and traffickers through forced criminality, street begging or forced labour – mainly in the sex industry – and can become victims of forced marriages or organ transplants.

The research study was based on existing research reports for France, Germany, the Netherlands, the UK, Bulgaria, Romania, Sweden, Serbia and Italy. It revealed that child smuggling and trafficking often happen because the mechanisms established in international treaties to protect children do not protect children's rights effectively, or in some rare cases, they even do not exist at the national level.

Firstly, measures need to be taken even before child trafficking has occurred. Improving awareness of the risks of child trafficking among the victims or potential victims and their relatives, among the practitioners working with child victims of trafficking and society is a strong preventive measure. Awareness can be raised particularly by a couple of mechanisms. Nationwide information campaigns presumably have a preventive impact on the society and they have been already organised in the Netherlands, Serbia, Bulgaria, the UK, Germany and Romania. Education and schooling can enhance knowledge of potential child smuggling and trafficking. The specific educational programs have been already implemented in all countries covered by this research. Relevant training of professionals working on child trafficking, as has been organised in France, the Netherlands, Serbia, Italy, Germany, Romania, the UK, Sweden and Bulgaria, should be regular and involve a broad group of professionals.

Secondly, the procedures related to child trafficking cover a wide range of border measures. The identification of children, age assessment and the criminalisation of child trafficking should always be implemented with the highest respect for the human rights of vulnerable groups of migrant – often unaccompanied – children.

Border measures are established by the states to prevent and detect child and human trafficking. The specific procedures to follow if there is a suspicion of child trafficking have been established in France, Serbia, Romania, the Netherlands, the UK, Sweden and Bulgaria. However, the fact that these procedures have been established in these countries, does not mean that they always function efficiently (Romania, Italy).

The identification of victims requires the existence of rules on how to proceed in order to inform the competent authorities about a potential child trafficking victim, the so-called National Referral Mechanism (NRM). The NRM, however, does not exist in all countries (France, Serbia and Germany).

The next step is to determine whether a trafficking victim is a minor. The presumed minors who do not have any identification documents and raise a doubt concerning their age should be submitted, upon their agreement, to an age assessment procedure, necessary for the minors to have their rights respected.

There are two countries, Romania and Serbia, which do not have any established age assessment procedures.

Child trafficking and related offences are criminalised in all countries covered by this research. On the one hand, the criminalisation is essential for individual prevention. It means that the potential offender is made aware of and discouraged from getting criminally involved in child trafficking and in getting involved in child trafficking again after being sentenced. On the other hand, the criminalisation of these acts also serves a broader general prevention measure among third parties in society.

Thirdly, the next step towards the elimination of child smuggling and trafficking is taking adequate measures to place the child in appropriate and secure accommodation. The children should not be placed in the same accommodation as adults, because it has been considered as a factor that increases the risk of a child becoming a victim of trafficking (Serbia, Bulgaria, Romania and Germany). A problem of lack of places in shelters for children, like in France and Italy, should be solved by finding alternative accommodation for the children concerned, such as, for example, in foster families, which would also enhance the integration of children into society.

As minors do not have legal capacity, legal guardians should be appointed without undue delay. Each guardian should be appointed to represent and protect the rights of a reasonable number of children, to represent them and to protect their rights. In Romania, Bulgaria and the UK, legal guardians are not appointed. In the UK, children do have legal representatives, but they have limited power and they cannot always act in the best interests of the child.

The above-mentioned measures are milestones in the eradication of child smuggling and trafficking. It has been scientifically proven that the implementation of these measures can improve the situation of vulnerable – often unaccompanied or separated – children.

