



T-ES(2016)RFG-03\_bil

28 February 2017

Committee of the Parties to the Council of Europe  
Convention on the protection of children against  
exploitation and sexual abuse (**Lanzarote Committee**)

Comité des Parties à la Convention du Conseil de l'Europe  
sur la protection des enfants contre l'exploitation et les  
abus sexuels (**Comité de Lanzarote**)

### **Compilation of Replies to Question 3 of the Focused Questionnaire**

### **Compilation des réponses à la Question 3 du Questionnaire Ciblé**

The full replies submitted by States and other stakeholders are available at:

Les réponses intégrales des Etats et autres parties prenantes sont disponibles ici :

[www.coe.int/lanzarote](http://www.coe.int/lanzarote)

**PROTECTION** (Lanzarote Convention, Chapter IV)

- 3) Has a coordinated child protection approach been put in place to cater for the specific needs of migrant and asylum-seeking children victims of sexual exploitation and/or sexual abuse?
- a) Describe the measures taken to address the situation and cater for the children's specific needs (multiple traumas, language/cultural differences, etc.), including with respect to guardianship/placement;
  - b) Indicate also what measures have been taken to protect the children concerned from further exploitation/abuse and to assist the victims in seeking redress (please highlight any differences between Groups 1 and 2 of children as outlined above);
  - c) Underline any lessons learnt from specific challenges (in reporting suspicion of sexual exploitation and abuse, in tailoring assistance to the victims, etc.) that had to be faced to improve protection.

**PROTECTION** (Convention de Lanzarote, Chapitre IV)

- 3) Une approche coordonnée de la protection de l'enfance a-t-elle été mise en place pour prendre en charge les besoins spécifiques des enfants migrants et demandeurs d'asile victimes d'exploitation et/ou d'abus sexuels ?
- a) Décrivez les mesures prises pour faire face à la situation et prendre en charge les besoins spécifiques des enfants (traumatismes multiples, différences linguistiques/culturelles, etc.), y compris en ce qui concerne la tutelle et le placement ;
  - b) Indiquez aussi les mesures qui ont été prises pour protéger les enfants contre de nouveaux faits d'exploitation et d'abus et pour aider les victimes à obtenir réparation (veuillez indiquer, le cas échéant, les différences entre les enfants des Groupes 1 et 2, tels que définis plus haut) ;
  - c) Indiquez quels enseignements ont été tirés des défis spécifiques qu'il a fallu surmonter pour améliorer la protection des victimes (par exemple pour le signalement des soupçons d'exploitation et d'abus sexuels, pour l'offre d'une assistance adaptée aux victimes, etc.).

## TABLE OF CONTENTS / TABLE DES MATIERES

<b>I – STATES TO BE ASSESSED / ETATS DEVANT FAIRE L’OBJET DU SUIVI .....</b>	<b>5</b>
ALBANIA / ALBANIE .....	5
ANDORRA / ANDORRE .....	6
AUSTRIA / AUTRICHE .....	7
BELGIUM / BELGIQUE.....	13
BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE.....	15
BULGARIA / BULGARIE .....	15
CROATIA / CROATIE .....	18
CYPRUS / CHYPRE .....	19
CZECH REPUBLIC / REPUBLIQUE TCHEQUE .....	21
DENMARK / DANEMARK .....	22
FINLAND / FINLANDE .....	24
FRANCE.....	25
GEORGIA / GEORGIE .....	31
GERMANY / ALLEMAGNE .....	32
GREECE / GRECE.....	35
HUNGARY / HONGRIE .....	36
ICELAND / ISLANDE .....	38
ITALY / ITALIE .....	39
LATVIA / LETTONIE .....	42
LIECHTENSTEIN .....	45
LITHUANIA / LITUANIE .....	45
LUXEMBOURG .....	45
MALTA / MALTE.....	46
REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA.....	46
MONACO .....	46
MONTENEGRO.....	48
NETHERLANDS / PAYS-BAS .....	49
POLAND / POLOGNE .....	50
PORTUGAL.....	50
ROMANIA / ROUMANIE .....	52
RUSSIAN FEDERATION / FEDERATION DE RUSSIE.....	52
SAN MARINO / SAINT-MARIN .....	55

SERBIA / SERBIE .....	55
SLOVENIA / SLOVENIE .....	55
SLOVAK REPUBLIC / REPUBLIQUE DE SLOVAQUIE.....	56
SPAIN / ESPAGNE .....	59
SWEDEN / SUEDE .....	60
SWITZERLAND / SUISSE.....	61
“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” / «L’EX-REPUBLIQUE YOUGOSLAVE DE MACEDOINE».....	62
TURKEY / TURQUIE .....	64
UKRAINE.....	71
 II – OTHER STATES AND OTHER STAKEHOLDERS / AUTRES ETATS ET PARTIES PRENANTES....	 72
ARMENIA / ARMENIE.....	72
AZERBAIJAN / AZERBAÏDJAN .....	73
ESTONIA / ESTONIE .....	73
IRELAND / IRLANDE.....	73
NORWAY / NORVEGE .....	73
UNITED KINGDOM / ROYAUME UNI.....	74

**COMPILATION  
of replies / des réponses**

**I – States to be assessed /  
Etats devant faire l'objet du suivi<sup>1</sup>**

**ALBANIA / ALBANIE**

**Question 3**

General approach:

All rights and fundamental freedoms of foreign nationals and stateless individuals are the same as for Albanian citizens except some rights that according to constitution are related to the Albanian citizenship. There are also special laws which their field of application is extended also to foreign nationals who live in albanian territory.

Based on Law no. 10347, dated 04.11.2010 "On the Protection of the Rights of the Child" Child Protection Unit, is the responsible body for identifying, evaluation and management of cases of children at risk within the municipality or administrative unit. For foreign and asylum seeking children who live in the territory of the Republic of Albania, are applied the same legal provisions and procedure for protection from violence, abuse, exploitation, neglect, as for Albanian children.

In cases of foreign and asylum seeking children are prey to abuse and exploitation by their parents or their legal guardians, they are placed in alternative care services as Albanian children.

Given the fact that there are no cases of exploitation or sexual abuse of asylum seeking children, accommodated in the centres for asylum seekers, there are applied measures as to any foreign citizen, no specific measures are applied for this category of foreign children.

Specific approach:

UNHCR and UNICEF in collaboration with NGO are part of a Working Group on Child Protection in cases of crisis of refugees and migrants in Albania by supporting setting up a coordinated accountability mechanism to protect children, based on international standards of human rights and the national legal framework. This working group was tasked to coordinate jointly activities in the field with many other organizations (local, national and international) offering different support in emergency case.

**Question 3.a**

Law no.121 / 2014 "On Asylum in the Republic of Albania", aims to establish procedures for granting and withdrawing of asylum, complementary and temporary protection in the Republic of Albania, the rights and obligations of asylum seekers, refugees and persons under temporary protection. This addresses the special care for unaccompanied children in the

---

<sup>1</sup> Unless otherwise specified, the replies below were sent by the authorities / sauf indication contraire, les réponses ci-dessous ont été envoyées par les autorités.

highest interests of the child. In the National Reception Center for Asylum Seekers there are employed a psychologist and a doctor, who have adequate capacity to identify and treat the cases of sexually abused children. A translator is provided for all asylum seekers who do not understand the language. A legal guardian is assigned in cases of unaccompanied children.

Ministry of Social Welfare and Youth has drafted the law "On the rights and protection of children", which was adopted by the Council of Ministers and currently is expected to be voted on in parliament. The provisions of this law regarding all the rights of the child and his protection from abuse and exploitation, as provided in the various international conventions where Albania adheres, apply to all Albanian and foreigner children who are in the territory of the Republic of Albania

World Vision Organization, in its intervention plan sought to ensure setting up Child Friendly Space (CFS) where children can be protected and safe, relaxed, enjoy games and through playful, psycho-social and conversational activities undergo emergency psychological first aid. Furthermore, this is considered to be a safe place to inform children regarding safe migration in order to protect them from being victims of trafficking, sexual abuse, forced labor or any other form of violence.

### **Question 3.b**

During the reporting period there is no case of sexual abuse of asylum-seeking children.

### **Question 3.c**

During this period, we are not faced with special challenges because there weren't cases of sexual abuse of asylum-seeking children.

## **ANDORRA / ANDORRE**

### **Question 3**

Dans le cadre de prévoir l'attention intégrale des familles et enfants en situation de réfugiés, il existe une Commission formée par la Secrétaire d'État de Justice et Intérieur, la Secrétaire d'Etat d'Affaires Sociales et Occupation et une technicienne du Ministère d'Affaires Sociales à fin de coordonner toutes les actions à développer dans ce sens et impliquant tous les Ministères concernés (Éducation, Santé, etc.).

Ainsi, un protocole exhaustif et détaillé est en train d'être développé à fin de veiller au respect des nécessités qui puissent présenter les personnes dans cette situation avec toutes les garanties. Par exemple: comment ils devraient être recueillis aux frontières par la Police, quel contrôle d'identification personnelle se ferait, comment se stipulerait les conditions des réfugiés vérifiées par les autorités françaises et espagnoles, comment se feraient les autorisations d'immigration, comment se ferait la révision médicale par le Servei Andorrà d'Atenció Sanitària (Service Andorran d'Attention Sanitaire), comment se faciliteraient les vêtements et produits de soin et d'hygiène personnelle, comment se ferait la scolarisation des enfants, l'organisation des cours de catalan et aussi la recherche de travail.

## AUSTRIA / AUTRICHE

### Question 3

In Austria there is a close cooperation between the authorities involved in cases of sexual abuse and sexual exploitation (child and youth welfare authorities, police, public prosecution services, courts, asylum accomodation) and victims' protection organisations.

The police authorities have to inform the child and youth welfare authorities of any case of sexual abuse or sexual exploitation. The police can ban an endangerer from the victim's environment ("*Betretungsverbot*"). This prohibition is automatically forwarded to the violence protection center in the region (Sec. 25 para. 3 Sicherheitspolizeigesetz). The violence protection center then contacts the victim and offers psychosocial support and legal assistance.

Victims' protection organisations are also involved in planning the necessary measures in a specific case. There are also victims' protection organisations that organise supervision for those dealing with victims. During the refugee crisis they turned to various institutions involved in the work with children, e.g. the Red Cross.

If there are signs and notices regarding sexual violence or abuse of a child, a hazard evaluation and risk assessment has to be performed by the child and youth welfare authorities (based on the Child and youth care Law, Sec. 22 B-KJHG). When the hazard evaluation results in a risk for the concerned child, appropriate protective measures have to be taken (Sec. 26 B-KJHG).

During the care, restrictions can be applied and control agreements with the parents of the children can be made. If the agreement is not complied with, an application for the transfer of custody to the competent court is made. There is no difference between children seeking asylum or entitled to asylum on the one hand and children with Austrian or EU-citizenship on the other hand.

Victims can be transferred to another facility, even in another province (for example with information block in the population register). In this case it is important to find a facility that is suitable concerning the origin of the victims.

The specific challenges in dealing with minor refugees as victims of violence and abuse were also discussed at the interministerial working group on assistance in proceedings ("*IMAG Prozessbegleitung*") on 15 September 2016 under the leadership of the Federal Ministry of Families and Youth with participation of the Federal Ministry of Justice, the Federal Ministry of Education and Women and numerous victims' support organisations.

In addition, the regions have developed the following approaches:

In **Vienna**, the MA 11 set up a Coordination Unit in autumn 2015 in order to provide targeted care services to children, particularly unaccompanied minor refugees who fled to Austria. In cooperation with other departments of the Municipality of Vienna (particularly the *Fonds Soziales Wien*), a series of care instruments have been installed so as to offer them sufficient protection as well as good integration possibilities.

Consequently, unaccompanied minor refugees receive care in socio-pedagogical flat-sharing communities according to the standards of the Vienna Child and Youth Services Act 2013 or alternatively, by specially trained foster or host parents. Furthermore, work priorities relating to risk assessment, the exercise of child custody and asylum representation have been defined.

The employees of MA 11 have undergone training in special training programmes for the care of refugee children (with special emphasis having been placed on issues such as dealing with traumas, intercultural problems, recognising exploitation or sexual abuse and similar issues). Moreover, the Municipality of Vienna is operating a specialised Crisis Centre (*“Drehscheibe”*) for unaccompanied minors and those who are affected by forms of human trafficking. This Centre collaborates with different associations and organisations specialised in these areas (such as the NGO for victims of trafficking in human beings (LEFÖ Association) or the International Organisation for Migration, for example). On top of that, the scope of interpretation services has been significantly extended (in this context, a video interpretation programme for crisis situations has proven particularly successful).

The psychological services offered by MA 11 have developed trauma-pedagogical tools for the care of refugee children (for example, see: <https://www.youtube.com/channel/UCf4ArRYBA2ecLVrOo8Z6 Ug>), and the employees of MA 11 have undergone extensive training in the use of the latter. Furthermore, the Municipality of Vienna is operating socio-pedagogical institutions for the care of heavily traumatised refugee children, and also the scope of psychotherapeutic and psychological treatment offers has been significantly extended.

Moreover, the employees of MA 11 have been particularly trained in the use of victim protection instruments provided for by Austrian legislation (for example, within the framework of the Code of Criminal Procedures or the asylum proceedings).

In **Lower Austria**, there is no coordinated child protection approach, but the specific needs of the migrant and asylum seeking children are individually considered. Lower Austria accommodates and cares for the unaccompanied minors in special facilities separated from adult asylum seekers resp. in specialised facilities or suitable private care persons (caregivers). Psychotherapy is available.

In **Upper Austria**, in case of violence, sexual abuse or sexual exploitation, victims can be transferred to another facility, even in another province. The perpetrator is transferred to another facility in case he/she was not already put in pre-trial-detention or prohibited to enter the premises by the police. In case of criminal offences within the family victims are encouraged to report the crime to the police. If the victim does not report the crime to the police, the facility provider is requested to either report the crime or consult a doctor.

In **Vorarlberg**, unaccompanied minor foreigners are mostly accommodated in child and youth facilities. The examination of the necessary measures is carried out in individual cases. It's being attempted to offer all the young people language courses in the facilities. The duration, quality and intensity of these courses vary. Children of compulsory school age will be incorporated into the regular school system.



During the asylum seeking process the children are represented by an authorized agency up to the end of the procedure or to the age of majority.

The children have the opportunity to make use of specialized medical assistance (also psychological help) in acute crisis (self-endangering and foreign danger) during the procedure for seeking asylum. Therefore there is a cooperation between the Child and youth care facilities and a certain hospital. Additional therapeutical accompaniments can be granted only in justified cases and after previous financial clarification.

These offers are also available after the positive end of the procedure for seeking asylum.

It's being attempted not to accommodate the minor unaccompanied girls in a large quartier. In other experiences of abuse (perpetrator outside of the facility) there is a cooperation with the victim protection and the police.

### **Question 3.a**

Generally, the Child and Youth Welfare Authorities are entrusted with the custody for unaccompanied minor migrants and asylum seeking children and it caters for the children's specific needs.

Asylum seekers are informed that psychological support is available in order to work on their specific needs as victims. Furthermore interpreters are available for the meetings between psychologists and asylum seekers. Additional health practitioners and services are available when needed. Thereby the offered separated housing in designated buildings contributes to the atmosphere of protection for children. The offering of a complete daily activity schedule and care program should moreover be promoting the "healing process" of past experiences. If assessed helpful to concerned minors, switching to another reception center will be enabled.

Unaccompanied alleged minors who are migrants or asylum seekers are specifically protected by procedural provisions in the asylum proceedings: After lodging an application minors are represented ex officio by legal advisors during the asylum procedures. Once their application is admitted, the locally responsible youth welfare service becomes the legal representative. During all procedures unaccompanied alleged minors receive a needs based shelter, adequate care and practical provisions (e.g. trainings).

Two projects can be mentioned in this context:

- Trainings of Federal Office for Asylum and Immigration in cooperation with UNHCR (Project "Bridge")

Currently these trainings concerning adequate dealings with traumatized and vulnerable applicants (including unaccompanied minors) are in the preparation stage. The overall project is planned until 2019 and it will involve the Federal Office for Asylum and Immigration (BFA), the Federal Administrative Court (BVwG), the Constitutional Tribunal (VfGH) and the Higher Administrative Court (VwGH) and specifically involved interpreters.

- Trainings for the identification of victims of THB in asylum procedures (Project „IBEMA“)

This currently running project (planned duration until 2019) is a cooperation among UNHCR, IOM, the Federal Criminal Police Office, the Federal Ministry of the Interior and the BFA. Its main focus lies in extensive trainings in order to raise awareness for the identification of

victims of trafficking of human beings. The target group consists of officials of the Federal Office for Asylum and Immigration, judges at the Federal Administrative Court who are responsible for asylum cases and legal advisors who are prescribed by law to support asylum seekers. In addition, a corresponding training booklet was developed.

### **Question 3.b**

#### **1. Psychosocial and legal assistance in criminal proceedings**

According to para. 66 subpara. 2 Code of Criminal Procedure (CCP), a person who might have been a victim of violence or dangerous threat, whose sexual integrity might have been violated or whose personal dependence might have been violated by a criminal offence (para. 65 subpara. 1 lit. a CCP) is entitled to obtain psychosocial and legal assistance upon request to the extent necessary to safeguard his/her procedural rights in greatest possible consideration of his/her personal involvement. Victims whose sexual integrity might have been violated and who are under 14 years old are granted psychosocial assistance in any case. In case of physical and sexual violence against children under the age of 18 years the victim's caregivers can also benefit from the psychosocial and legal assistance.

Psychosocial assistance encompasses the victim's preparation with regard to the criminal proceedings and the related emotional burden, and to accompany him or her to hearings as a witness. Legal assistance comprises legal advice and the victim's legal representation during the criminal proceedings, both provided by a lawyer.

In case the victim does not speak German, an interpreter will take part in the meetings between the victim and the psychosocial or legal assistance.

There is a difference between group 1 and 2 insofar as psychosocial and legal assistance in criminal proceedings can basically only be granted for criminal proceedings in Austria. Criminal proceedings are conducted in Austria when the crime was committed in Austria (territoriality principle) or on board of an Austrian ship or aircraft, no matter where it is located (flag principle). Besides the provisions on extraterritorial jurisdiction have to mentioned:

According to Section 64 para. 1 subpara. 4a of Criminal Code (CC) the provisions of Austrian law, regardless of the provisions of the law in the territory in which the offence has been committed, also apply to criminal offences which have been committed abroad, if they constitute, genital mutilation within the meaning of § 90 para. 3, kidnapping for ransom (§ 102), transfer to a foreign power (§ 103), slave trade [slavery] (§ 104), trafficking in persons (§ 104a), serious coercion under § 106 para. 1 subpara. 3, forced marriage (§ 106a), illegal adoption placements (§ 194), rape (§ 201), sexual coercion (§ 202), sexual exploitation of a vulnerable or mentally impaired person (§ 205), serious sexual exploitation of a person under the age of 14 (§ 206), sexual exploitation of a person under the age of 14 (§ 207), pornographic depiction of a minor under § 207a paras. 1 and 2, sexual exploitation of a person under the age of 16 (§ 207b), abuse of a position of authority under § 212 para. 1, procuring engagement in prostitution and pornographic performances by a minor (§ 215a), transnational prostitution trade (§ 217) **and**

1. either the perpetrator or the victim is an Austrian national or has his/her habitual residence in Austria, **or**
2. the offence impairs other Austrian interests **or**
3. the perpetrator was an alien at the time the offence was committed, is staying in Austria and cannot be extradited.

As far as Austrian jurisdiction is not already established on ground of the aforementioned provisions, the general provisions of Section 65 of the CC may also apply (in case of offences committed abroad). Under this provision, Austrian nationals as well as foreign nationals caught in Austria who cannot be extradited on other ground than the character of their offence, are subject to Austrian jurisdiction also for offences committed abroad, provided that the principle of double criminality applies.

## 2. Psychosocial assistance in civil proceedings

Criminal proceedings against a victim's offender are often accompanied or followed by other civil proceedings and lawsuits, such as actions for asserting financial claims. According to section 73b of the Austrian Code of Civil Procedure a victim (as defined by section 65 subsection 1 lit. a of the Austrian Code of Criminal Procedure can request psychosocial assistance for civil proceedings related to criminal proceedings, to the extent necessary to ensure their procedural rights in greatest possible consideration of their personal involvement. According to section 7 of the Austrian Non-Contentious Proceedings Law (Außerstreitgesetz), this provision also applies to non-contentious proceedings (proceedings before civil law courts concerning legal matters such as guardianship, right of contact and of access, child support or adoption).

3. Victims' protection organisations help victims to request interim injunctions against the perpetrator.

## 4. Asylum seekers

The above-mentioned measures (cf. question 3a, e.g. psychological support, awareness workshops, etc.) are the services provided that allow for the protection of the children and also show the person concerned actions to seek redress. A distinction between Group 1 and Group 2 has not yet been encountered.

### **Question 3.c**

#### 1. Confidentiality:

Due to the obligation to confidentiality, doctors' and psychologists' data/contents of meetings cannot be given to other parties. In general, it can be said that cultural differences and language barriers occasionally constitute a challenge. However the use of same-gender, native language speaking social workers is crucial in this regard.

## 2. Interpretation:

Interpreters have to be able to detect cultural and religious differences. They give important background information on the cultural habits of the victims' country of origin. However, there is a lack of interpreters for rare languages.

## 3. Taboos:

Sexual abuse and exploitation is a very delicate topic as this matter is a taboo in most of the victims' countries of origin. Especially sexual violence against women and girls is very difficult to detect because victims are ashamed. Children need to feel trust in order to be able to talk about sexual exploitation and abuse, especially if the offences are committed by a parent, a family member or a person the victim is dependent on. The fact that an interpreter has to be present makes it more difficult to establish a relationship of trust and therefore does not encourage children to talk about these events. Non verbal information material (cf. [www.zartbitter.de](http://www.zartbitter.de)) is crucial in order to build trust. Sometimes sexual violence is pushed into the background because of multiple war traumata and existential fears.

Therefore the extent of these criminal offences will probably only become known in the future when the persons concerned have gained the necessary internal and external certainty to talk about their experiences.

## 4. Difficulties of victims with involved agencies:

Due to the situation in some countries of origin it can be difficult for victims to distinguish between the authorities and the victims' protection organisations. For example, it turned out to be difficult for an NGO to explain their obligation to secrecy.

Victims are often afraid of the police due to their experiences in the country of origin.

They are also afraid because they do not know the laws in Austria, therefore information is vital to diminish their fears.

## 5. Different legal systems:

In one case reported by an NGO, the victim was a 12-year-old girl who came to Austria with her parents and her fiancé. The officers at the Asylum Center found out that the girl had sexual intercourse with her fiancé. Since sexual intercourse with a person under 14 years of age is a criminal offence in Austria, therefore a notification to the public prosecution service was filed. The family was referred to a victim protection organisation. It was a challenge to convince the family of the importance of child protection. For them being helped mainly meant to receive accommodation, food, clothes and obtain money for travel-expenses and education for their daughter. They were not able or willing to understand that the fiancé had committed sexual abuse. They argued to be happy that they had been able to engage their daughter as she had been raped in the country of origin.

## 6. Treatment:

In Austria there are relatively few psychotherapists who have enough experience in dealing with war traumata. There is a long waiting list for traumapsychological treatment due to the lack of native speaking psychologists/psychotherapists and sensitized interpreters.

## 7. Training:

There are more intensive trainings and information for the employees of the care facilities required, which deal with the subject attitude and dealing with sexuality (See Ad 2 and 2a). In case of sexual violence, the care facilities should also be informed more intensively how to proceed in such cases and which standards are to be applied.

## **BELGIUM / BELGIQUE**

### **Question 3.a**

Une situation d'exploitation sexuelle de mineurs doit être considérée comme de la traite des êtres humains.

De ce point de vue, une circulaire multidisciplinaire relative à l'orientation des victimes de traite adoptée en 2008 sous l'impulsion de la Cellule Interdépartementale de coordination de la lutte contre la TEH, organise l'identification et l'orientation des victimes et contient un chapitre particulier pour les mineurs.

Au niveau de l'Office des Etrangers, on applique ce qui est prévu dans la Circulaire relative à la mise en œuvre d'une coopération multidisciplinaire. Cette circulaire est en phase finale de réécriture suite à son évaluation et à des modifications législatives et réglementaire.

### **Question 3.b**

FEDASIL signale les éléments suivants :

La loi « accueil » introduit un mécanisme qui vise à évaluer les besoins individuels du bénéficiaire de l'accueil en vue de déceler les besoins spécifiques et toute vulnérabilité.

C'est le rôle du travailleur social référent de réaliser cet examen de la situation individuelle.

Il prendra les contacts nécessaires en vue d'une éventuelle orientation vers un centre spécialisé pour victimes de la traite.

### **Le trajet d'accueil des MENA**

Le mineur qui se déclare MENA sera accueilli dans un centre d'observation et d'orientation de Fedasil (COO). L'accueil dans un COO constitue, en principe, la première phase d'accueil des MENA.

L'objectif du COO est de dresser un premier profil médical, psychologique et social du MENA et de détecter une éventuelle vulnérabilité en vue de l'orienter vers une prise en charge adaptée.

Dans une deuxième phase le jeune sera orienté dans une structure d'accueil adaptée à ses besoins. A défaut d'un accueil plus adapté à ses besoins (octroyé par les Communautés, ... ) il est accueilli dans une autre structure d'accueil communautaire gérée par l'Agence ou un

partenaire. Dans une troisième et dernière phase, il est accueilli en principe par les autorités compétentes (CPAS, Communautés, etc.) en fonction de ses besoins, de son statut et de son projet personnel ou le cas échéant par Fedasil.

Mesures :

Une des missions du COO est de mettre en places les mesures de protection nécessaire pour éviter les disparitions inquiétantes des MENA et de ce fait le risque d'exploitation. Il s'agit notamment de: surveillance intensive du réseau du jeune (via retrait du GSM, système de permission et visite, accompagnement des sorties du MENA, contrôle continu 7/7j et 24/24h.)

Pendant cette période d'observation, l'objectif est de détecter les vulnérabilités et prendre éventuellement des mesures de protection spécifiques en fonction des besoins du jeune (ex : accompagnement à chaque sortie, demande de désignation tutelle prioritaire,...). En cas de doute de victime de traite des êtres humains, le COO prend contact avec un centre spécialisé pour l'accueil et l'accompagnement des victimes de la traite des êtres humains afin d'établir le besoin d'accueil dans une structure protégée et confidentielle. Le centre se chargera du suivi administratif et juridique de son dossier. Son hébergement n'aura cependant pas lieu sur place car ces centres hébergent des adultes mais dans un autre centre qui accueille des mineurs victimes de traite ou des MENA.

La procédure de protection octroyée sur la base des faits de traite ne pourra se prolonger que si la victime accepte de collaborer avec la Justice. Cette collaboration est envisagée et pratiquée de façon souple pour les mineurs. La loi en elle-même ne requiert pas le dépôt d'une plainte mais le fait d'avoir des déclarations est suffisant.

Durant toute cette période et encore un peu après le procès des auteurs, la victime bénéficie d'une aide juridique, psychologique, médicale, sociale ... Un titre de séjour définitif sera octroyé à la victime en cas de condamnation de l'auteur ou si le parquet a retenu la qualification de traite des êtres humains.

Si une procédure d'asile a déjà été entamée avant que la procédure de protection ne soit elle-même commencée, dans ce cas il faudra choisir quelle procédure poursuivre mais le mineur pourra quand même bénéficier de l'appui spécialisé en-dehors des questions liées aux titres de séjour.

Il faut aussi noter qu'actuellement la circulaire multidisciplinaire ne fait pas de distinction dans les statuts de mineurs. Son chapitre spécifique concerne les MENA.

Il faut noter que le texte est actuellement en cours de révision et que tenant compte des recommandations du GRETA, il précise désormais mieux les procédures à suivre pour les victimes belges et étrangères. Dès lors, le nouveau texte en projet détaille les mesures à prendre vis-à-vis des mineurs belges en général et des MENA en particulier.

Le nouveau plan d'action 2015 – 2019 de lutte contre la traite des êtres humains prévoit d'accentuer la sensibilisation dans le milieu scolaire et dans le secteur de l'aide et de la protection de la jeunesse. Des discussions sont en cours avec les Gouvernements fédérés afin de mettre en œuvre ces actions.

Ces différents projets visent entre autres à faciliter l'identification et l'orientation des victimes potentielles. Assurer en effet une réaction adéquate de tous les intervenants reste en effet une difficulté et un défi.

Il est à noter que les travailleurs sociaux des structures d'accueil de 2<sup>ème</sup> phase et de 3<sup>ème</sup> phase appliqueront la même démarche en cas de suspicion.

### **Question 3.c**

Les formations ont été évaluées et elles font l'objet d'adaptations. Ainsi, il est prévu en plus de la formation généraliste qui sera donnée en 2016 au niveau de FEDASIL d'avoir également des workshops plus pratiques sur le plan régional. Cela permettra de répondre plus spécifiquement aux demandes et questions locales.

Un point de discussion porte aussi souvent sur la question du secret professionnel et il faut parvenir à trouver un cadre de collaborations qui fonctionne tout en le prenant en compte.

## **BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE**

### **Question 3**

There were no cases of migrants and asylum-seeking children.

## **BULGARIA / BULGARIE**

### **Question 3.a**

An inter-institutional Coordination Mechanism for Referral and Care of Unaccompanied Bulgarian Children and Children Victims of Trafficking Returning from Abroad was established. It is a system for inter-institutional cooperation so as to facilitate and accelerate the interaction of the institutions at the return of unaccompanied minors from abroad and their care, as well as of children - victims of human trafficking.

At present, a workgroup with representatives from all interested governmental and non-governmental organizations is working on creation and adoption of 'Coordination Mechanism for Referral and Care of Unaccompanied Children - third country nationals, seeking asylum and/or international protection'.

Ministry of Interior annually provides the NCCTHB with the available information on identified cases of human trafficking in all forms of manifestation.

In order to guarantee the rights of children- foreign citizens, seeking and/ or benefiting international protection, an Agreement on cooperation, interaction and exchange of information between the State Agency for Child Protection and the SAR was signed, according to which both Contracting Parties will join efforts to implement a unified state policy for protection of minor children-foreigners, seeking and/or benefiting from international protection in the Republic of Bulgaria. In this manner the actions between the two agencies were coordinated and proposals for legislative changes were prepared, regarding the legal representation, minimum quality care standards for children-foreigners during their stay in the accommodation centers. Guaranteeing the rights of this particularly vulnerable group of

children, at present, is a primary concern and responsibility of the state with a priority to provide their right to life, survival and development, prevention and non-discrimination, protection from all kinds of violence.

The SAR, together with government institutions and NGOs, is involved in updating the National Mechanism for Referral and Support of Trafficked Persons and Standard Operating Procedures for Prevention of and Response to Gender-Based Violence.

In line with Art. 22 of the UN Convention on the Rights of the Child and Art. 25 and Art. 26, Para. 1 and Para. 3 of the Asylum and Refugees Act, the Agency shall implement the measures required to ensure that a child who is seeking a refugee status or who is considered a refugee, no matter if he/she is accompanied or not accompanied by his/her parents or by a person responsible for him/her, will receive adequate protection, assistance and access to the respective rights. The process of determining the specific measures that shall be undertaken starts with assessing the best interest of the child. Unaccompanied or separated from their family children shall be considered in the context of the UN Convention on the Rights of the Child, Directives on asylum and Directive on combating human trafficking, and Conclusion No 7 of the Executive Committee of UNHCR and are identified in Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum and Interagency Guidelines on Unaccompanied and Separated Children.

Protection measures that are tailored to the specific needs of children include: access to safe accommodation and care; age determination when necessary; family tracing; provision of appropriate social, health and psychological care and the right to education; provision of representative; legal advice/ representation; access to mechanism of complaints; interpreter; interviews and advice tailored to the child in order to ensure that his/her best interests shall be a primary consideration; interests of the child in accordance with his/her age and maturity.

Conclusion No 107 of the Executive Committee of UNHCR identifies as children at increased risk, those affected by individual risk factors, including, but not limited to: the situation of unaccompanied or separated children, particularly those in households headed by children as well as those who are accompanied by adults who benefit from them or exploit them; children who are stateless persons; adolescents, especially girls who are mothers and their children; children-victims of human trafficking and sexual abuse, including pornography, pedophilia and prostitution; survivors of violence, particularly sexual and gender-based violence and other forms of abuse and exploitation.

### **Question 3.b**

Unaccompanied refugee children usually have no identity documents. They enjoy privileges in proceedings for the assessment of their asylum application, under the Asylum and Refugees Act.

Police protection may be provided to an underage foreign citizen under Art. 13, Para. 3 of Ordinance No 1 - 51/2001 on the terms and conditions for providing police protection to children. The respective embassy or consular office shall be informed, following the specified procedure.



Unaccompanied minors are children at risk, under the CPA. The SAD shall initiate casework, shall appoint a social worker to support the unaccompanied child and to help ensure his/her rights and interests during his/her stay and residence in the centers of the SAR. Children shall be informed and consulted appropriately, according to their age and level of development about their rights and interests. The social worker deals with providing the necessary information for the child, which will help him/her to form their opinion. Unaccompanied children shall be consulted about the potential consequences of their wishes and decisions of the institutions.

Social workers are trained to deal with unaccompanied children seeking and benefiting international protection in the country by UNHCR and other international and non-governmental organizations with experience and expertise to work with refugee children and victims of violence.

A priority in the work of the responsible institutions is uniting the child with his/ her parents and/ or relatives and preserving his/her identity.

Considering that, to ensure the rights and interests of minor migrant children within the country, they need to have an appointed custodian or legal representative, we inform you about the following:

Terms and conditions for the establishment of guardianship and custody of children are regulated in the Family Code. SAD, as a body for child protection at a local level, is involved in the procedure for the establishment of guardianship and custody, under the Family Code provisions. Decisions for establishing a guardian and a custodian shall be taken by the Authority for guardianship and custody – by the Municipality Mayor or by his appointed official.

For unaccompanied children- third country nationals, who have requested international protection in the country and are a party in the proceedings for granting status, in ARA were introduced relatively new amendments from 16.10.2015, to ensure and provide a legal representation of unaccompanied children- foreigners.

For the unaccompanied children- third country nationals, who have not requested international protection under ARA shall be undertaken a measure of protection under the Child Protection Act.

According to Art. 137 of the Family Code, for children who administratively or judicially have been accommodated outside the family, is provided a 'substitute care'. This care is awarded to persons who, without the parents' consent can make decisions and take legal action to safeguard the lives and health of children and to ensure their rights and interests.

### **Question 3.c**

As a consequence of the increased number of illegal migrants and refugees in the country, it can be assumed that some of them may be involved in various forms of internal human trafficking, mainly for labor and sexual exploitation, but to date such information has not been received.

In order to protect the refugee children, in 2013 the Child Protection Act was supplemented, according to Art. 10, Para. 2 (suppl. SG. 84 of 2013) the right for protection under this Act has a person – a victim of violence or exploitation, whose age has not been identified and for whom can be made a reasonable assumption to be a child.

The aforementioned supplement allows to take adequate measures for the person, if needed, within the time to identify his/her actual age.

Regulatory framework has been improved regarding the children's representation. According to Art. 25, Para. 1 of ARA, for an unaccompanied minor or underage foreigner, seeking or benefiting international protection in the Republic of Bulgaria, shall be appointed a representative from the municipal administration, designated by the Mayor or his authorized official. The powers of the representative under Para. 1 are specifically stipulated in Para. 3 of Art. 25 in ARA.

Amendments and supplements in ARA were indispensable given the existing in practice obstacles for the implementation of the Family Code provisions, regarding the appointment of a guardian and a custodian for the unaccompanied children- foreign nationals seeking or granted international protection.

## **CROATIA / CROATIE**

### **Question 3**

In addition to the Act on International and Temporary Protection and the Protocol, the Government of the Republic of Croatia adopted the National Program of Protection and Promotion of Human Rights for the Period 2013-2015. The coordinated approach to the protection of unaccompanied children is realised through the implementation of the Protocol for the purpose of improving the current protection system for unaccompanied children. In order to meet the specific needs of migrants and to protect all children, including applicants for international protection who are victims of sexual exploitation and/or sexual abuse, an intensive cooperation between all the stakeholders in the field of care for unaccompanied children has been in place since the beginning of the migration crisis. Police officers, guardians *ad litem*, expert workers in the social welfare system, physicians and other experts are involved in the care for unaccompanied children and protection of their rights, each assessing the situation, needs and the best interests of children from their own perspectives.

Coordinated activity of the Ministry of the Interior and Ministry of Social Policy and Youth has been ensured with an active involvement by the Ombudswoman for Children, civil society organisations and international organisations (UNHCR, UNICEF, the Red Cross) in protecting the welfare of children who are applicants for international protection. The said bodies participate in the work of three coordinations: coordination related to persons who seek international protection, coordination for integration of foreigners who have been granted international protection and coordination for unaccompanied children.

### **Question 3.a**

In accordance with the Act on International and Temporary Protection, a child who is a victim of sexual exploitation or sexual abuse shall be provided appropriate medical care taking into consideration the child's specific condition, i.e. consequences arising from such acts. The

medical examination and care for the child/victim shall be provided for by the Ministry of Health, which shall also bear the associated costs. The Ministry of the Interior shall provide an interpreter for the language the child understands or may justifiably be presumed to understand and bears the costs of interpreting. The Ministry of the Interior has entered into agreements on mutual cooperation in the field of support to applicants for international protection with multiple civil society organisations that organise integration workshops as part of their activities, and whose employees and volunteers speak the languages of the countries of origin of the applicants for international protection. A Rehabilitation Centre for Stress and Trauma and a Society for Psychological Aid are active at the Reception Centre for Applicants for Asylum, their scope of work including psychological counselling, psychotherapy and psychiatric help services.

As part of social welfare, unaccompanied children are assigned a guardian *ad litem* for the purpose of protecting their personal and property rights and securing their best interests. Further, employees of social welfare centres, aside from the care for and protection of unaccompanied children, take care of their psychophysical condition, mental health, socialisation, leisure time and studying. Unaccompanied children are provided support in building a positive self-image, learning social skills and integration. Expert workers of social welfare centres monitor the accommodation circumstances and child care by regularly contacting and visiting the homes, provide for the basic living needs of unaccompanied children and monitor the work of guardians *ad litem*.

### **Question 3.b**

Should the existence of abuse/exploitation be established, all the available data on children who were victims of sexual abuse/exploitation prior to their entry into the territory of the Republic of Croatia, as well as the data on children who became victims following their entry into the territory of the Republic of Croatia shall be submitted to competent state bodies for further procedure.

### **Question 3.c**

In order to ensure adequate protection of children guided primarily by the best interest of a child, an efficient approach to children by all services involved in child protection and rights is essential, provided through regular education related to preserving child safety and identifying vulnerable groups of applicants for international protection, provision of first psychological aid to victims and a coordinated approach by all the competent bodies.

## **CYPRUS / CHYPRE**

### **Question 3**

Further to the measures mentioned under **Prevention**, several measures are in place concerning the further protection of migrant children and asylum seeking children. As mentioned earlier, unaccompanied minors are taken in care of the Director of Social Welfare Services, who acts as a guardian safeguarding access to their rights (i.e. education, health, activities, asylum application, etc.) based on the best interest of the child. Unaccompanied minors are placed in foster or residential care. All unaccompanied minors have access to the following:

1. Psychological support, when required.
2. Health services.
3. Education, extra curricular activities, etc.

Furthermore, an NGO (“Hope for Children”) has been subsidized by the government for specialization in the area of unaccompanied minors. This NGO operates two private Homes for unaccompanied minors providing care services and other supportive services in close cooperation with the Social Welfare Services.

As mentioned in 1(b), training is provided to officers who come into contact with migrant children and asylum seeking children, including unaccompanied minors.

**General protection measures concerning sexual abuse and/or sexual exploitation of children:**

Cases of sexual abuse and/or sexual exploitation of children are handled based on the best interest of the child and according to the specific needs of the child. The Social Welfare Services, based on article 31(2) of the Prevention and Combating of Sexual Abuse and Sexual Exploitation of Children and Child Pornography Law of 2014 (L.91(I)/2014), ensure that assistance, support and protection are provided to a child as soon as they or any other service involved have good reason to believe that a sexual offense has been committed against the child.

For further and better protection of children, in July 2015, the Council of Ministers appointed an Ad Hoc Interministerial Committee for the development of a National Strategy on the Prevention and Combating of Sexual Abuse and Sexual Exploitation of Children and Child Pornography. The National Strategy was adopted by the Council of Ministers on 21<sup>st</sup> March 2016.

Within the framework of the National Strategy, the Minister of Labour, Welfare and Social Insurance announced the intention of the Republic of Cyprus to create a Children’s House for handling cases of sexual abuse and/or exploitation of children. The Children’s House is expected to operate in 2017 by an NGO (“Hope for Children” CRC Policy Center).

**CYPRUS / CHYPRE**

**Replies sent by “Hope For Children” CRC Policy Center**

**Question 3**

The coordinated child protection approach entails the cooperation between the shelter officers with the Social Welfare Services, Cyprus Police and Mental Health Services. Through this cooperation the minor’s needs are met in terms of psychological support, legal assistance and protection.

**Question 3.a**

There is no specialized placement for minors that are victims of sexual abuse/exploitation in Cyprus. Therefore, the minor once identified as a victim he/she remains at the private shelter and support is provided by the specialised staff of the shelter on a daily basis. Services of a translator are also provided to facilitate the minor’s communication with the private shelter’s

staff. Visits of the minor to the Mental Health Services and Cyprus Police are provided with the services of translation also.

### **Question 3.b**

The issue of redress has not been addressed in relation to the targeted population. Any incidents identified or brought to the authorities would follow the existing procedure, which is two tier. The one concerns the criminal aspect, where the Police ex officio prosecutes the accused and the Attorney

General's Office acts as the Prosecution against the accused. The civil aspect can be initiated by the victim or the parent/guardian and aims at reparation, in the form of financial payments to the victim.

### **Question 3.c**

The experience in handling cases of sexual abuse to children illustrate that there is poor coordination between the services that handle cases of such nature, delays resulting from understaffing and procedural requirements, little expertise. Victims often are required to go through lengthy investigation procedures, be interviewed by a number of different professionals and relive the trauma all over again. If the case reaches the court, then again there are delays resulting from backlog. There were instances where sensitive information of the victim leaked which led to stigmatisation and further victimisation.

## **CZECH REPUBLIC / REPUBLIQUE TCHEQUE**

### **Question 3**

Frontline detection of minor victims is ensured by NGO's, in particular by those that work in facilities for asylum seekers and detention centers, social workers in these facilities and by local Departments of Social and Legal Protection of Minors (these departments are the main responsible body for subsequent social and legal protection of minor victims and other detecting subject should refer minor victims to these departments). The Departments provide protection of minors against perpetrators as well as protection of minor victims' rights during all of the prosecuting process and represent minor victims during criminal proceedings as an injured party.

The second line is represented by special facilities for save accommodation of unaccompanied minors or minor victims. Current total number of such facilities is 4. These facilities work under the Ministry of Education, Youth and Sport.

Prosecuting line is represented by Police, Prosecutors and Courts. Especially police uses specialized manuals focused on the detection of minor victims and dealing with them. Police also operates specially equipped interview rooms.

For the data collection are responsible especially Departments of Social and Legal Protection of Minors and Police.

From the perspective of policy making process, the topic of minor victims – detection and protection of them – is the subject especially of Ministry of Labor and Social Affaires. The Ministry of the Interior is cooperating.

## **DENMARK / DANEMARK**

### **Question 3.a**

Under the Action Plan to Combat Trafficking in Human Beings 2015-2018, the fourth in a series of consecutive action plans, the Danish authorities ensure that national efforts to combat trafficking in human beings continue. The Action Plan also offers a nationwide coordinated effort in offering support to victims of human trafficking.

The Action Plan primarily focuses on the following areas:

1. Preventing trafficking in human beings in Denmark and internationally
2. Victims of trafficking are sought out and identified
3. Victims of trafficking are offered individually tailored and coordinated support
4. Traffickers are prosecuted
5. Partnership and coordination

The Action Plan concerns all individuals currently residing in Denmark as a result of human trafficking and currently subjected to exploitation. The persons eligible for support under this action plan includes men, women and children who have been assessed to be victims of human trafficking either by the Danish Immigration Service or the Danish Centre against Human Trafficking.

There is no coordinated child protection approach between the Danish immigration authorities to cater for the specific needs of minor asylum seekers and other minors who are victims of sexual exploitation and sexual abuse.

However, all minors who fall under the provision of the Danish Immigration Service are provided with appropriate health care and social measures initiated by the asylum reception or accommodation centre operator and/or the local authorities. Health care and social measures may be subject to prior approval by the Danish Immigration Service, but in general minor asylum seekers and other minors under the Danish Immigration Service's provision have access to the same level of support as children residing legally in Denmark.

If the asylum reception or accommodation centre operator or the Immigrations Service is not capable of meeting the needs of the specific child, these authorities may request a professional assessment of the needs and situation of the child from the local authorities (social services). The assessment may serve to clarify which measures, assistance or support should be initiated in order to meet the needs of the specific child. The local authority shall submit the case to the Immigration Services and ask for the approval to initiate the needed measures. The same rules and regulations and hence the same possibilities to provide help apply to the asylum-seeking children as to other children residing in Denmark.

Special support and care for children and their parents in Denmark is regulated by the Act on Social Services. The local (municipal) authorities are responsible for social measures and have

a general obligation to monitor the living conditions of all children and young people residing within the municipality.

Special support to a child is provided when the local authority considers the child to have special needs. The special needs may arise due to the child having been subject to sexual abuse or exploitation. Pursuant to Danish legislation the municipality is obliged to provide a child with the needed support in accordance with the best interests of the child. Prior to a decision on the provision of social measures or assistance, the municipality shall have conducted a thorough assessment of the conditions and the needs of the child (child protection examination).

With regard to children who have been subject of sexual abuse or exploitation (or physical abuse) or where suspicion of such abuse exists, the child protection examination must be carried out in a special "Children's House". In the "Children's Houses" a coordinated effort between social services, police, therapeutic services and health services are offered with the purpose of providing the abused child with coordinated and professional help in a child friendly environment.

Upon the arrival of an unaccompanied minor in Denmark, a personal representative is appointed in order to serve the minor's interests. The personal representative is appointed as early in the process as possible and prior to any return decision and is engaged with the child throughout the whole process. The appointment ends when the child turns 18 years old. The procedure and appointment of personal representatives is described in the Danish Aliens Act Section 56 a (1).

The personal representative will offer support to the unaccompanied minor during the processing of the case, for example by accompanying the unaccompanied minor during the asylum interview, and will also support the unaccompanied minor on a more personal level. The role of a personal representative is aimed at offering more general support to children including assistance in relation to a decision as to their future.

The personal representative is independent and may not be affiliated with the immigration authorities, and can be a relative or other private individual. There is no specific educational requirement for the representative, but he/she must be suited to act in the best interests of the child.

In case of minors who are victims of trafficking regard must be had to this in the appointment of the personal representative.

### **Question 3.b**

Reference is made to the remarks above regarding 2.a.

### **Question 3.c**

The Danish Immigration Service does not collect data on victims of sexual exploitation and sexual abuse and has no coordinated approach to cater for the specific needs of minor asylum seekers and other minors who are victims of sexual exploitation and sexual abuse.

## FINLAND / FINLANDE

### Question 3.a

**The Government** refers to its reply to questions 2.a) and b), which concern also the question of protection.

Furthermore, **the Government** notes that, for example, the threshold for the possible minor victims of trafficking in human beings to be referred to the national assistance system for victims of trafficking in human beings is as low as possible. The victim receives appropriate assistance and support through the assistance system. **Central Union for Child Welfare** points out that this does not, however, mean that a child would have to move out of the unit for minors, as in these situations the unit receives support from experts of the assistance system. The support provided for children is planned according to their individual needs. **According to the Central Union for Child Welfare**, in the first six months of 2016, seven children were admitted to the assistance system. **Central Union for Child Welfare** states that according to the estimates of the assistance system, about one half of these children had experienced sexual abuse.

**The NGOs, namely Central Union for Child Welfare** considers that in practice, support and care for asylum-seeking children who are victims of sexual exploitation/abuse are always provided within the framework of the reception system and that level of measures taken to cater for the needs of victims of sexual exploitation or abuse and support provided for them varies in different locations and units as there exists no national system for victims of sexual abuse. However, according to the **Central Union for Child Welfare**, particularly in case of unaccompanied minors, a child's special needs can be catered for as these children are accommodated in dedicated units for minors, in which they receive more comprehensive health and social services than adults at reception centres. The units for minors are responsible for providing the children with age-appropriate attention, care, education and support. The Finnish reception system as such prevents abuse, as unaccompanied minors are accommodated in separate units.

### Question 3.b

The Government refers to its replies to Questions 2.a) and b) as well as 3.a). The measures described contribute also to the protection of the children from further exploitation/abuse.

### Question 3.c

**The Government** notes that a challenge that can be mentioned concerns the children who have disappeared during the asylum process from the reception centres and who are, thus, particularly vulnerable to exploitation. According to the authorities, such disappearances can be sought to be prevented, *e.g.*, by creating confidential relationships with an adults, safe accommodation intended for minor asylum seekers and a quick and efficient asylum process (see also the replies to Question 2 a)).

The significance of an experience of trustful environment has been brought up also by **NGOs, namely Central Union for Child Welfare**. According to **Central Union for Child Welfare**, disclosing experiences of sexual abuse may be very difficult and cannot be done unless the child finds the environment trustful. Creating a trustful relationship is a long process. In units for minors, each child and young person has a personal key worker, which may promote the



creation of a trustful relationship and relating difficult experiences. The staff working with children needs training in skills of encountering a child. Skills are needed in creating a sufficiently trustful and safe environment for a young person that allows him or her to relate traumatic experiences. In the asylum system, skills are also needed that provide the staff members with sufficient methods for encountering the stories of traumatised young people. The employees additionally need to be adequately supported by professional guidance to process these situations. Interpreters also need training for situations where customers relate their traumatic experiences.

Another challenge that has been brought up by the **NGOs, namely Central Union for Child Welfare** is that adequate information on the situation of children who arrive in Finland with their families and parents at reception centres is not available.

## **FRANCE**

### **Question 3**

Ainsi ces réseaux de référents conduisent-ils au renforcement de l'expertise de l'OFPRA pour identifier, en particulier, les mineurs isolés victimes d'abus et de toutes les formes d'exploitation, dont celles à des fins sexuelle ou de travail, et pour étudier leur demande de protection internationale en tenant compte de leurs besoins spécifiques, par la mise en œuvre de garanties procédurales spéciales, notamment : l'adaptation du temps de l'instruction, qu'il s'agisse de statuer en priorité dans le cas de besoins manifestes de protection ou de s'accorder un temps plus long pour faciliter la verbalisation du récit d'asile du mineur et la mise en place d'un accompagnement psycho-social adapté ; l'examen du dossier par un officier de protection spécialisé, assisté si nécessaire par un référent expert ; la possibilité pour le mineur isolé d'être assisté en entretien, outre par son représentant légal, par un tiers habilité ; celle d'être entendu par un officier de protection et un interprète du sexe du choix du demandeur lorsque cela est justifié par le fond de sa demande.

Par ailleurs, l'OFPRA met en place depuis 2015 une action concertée avec les interlocuteurs institutionnels et associatifs pertinents sur la situation de jeunes filles nigérianes mineures, victimes de traite à des fins d'exploitation sexuelle, forcées par les réseaux de TEH qui les exploitent à solliciter l'asile en tant que majeures, en produisant des récits de vie mensongers. Ce phénomène préoccupant, en nette augmentation depuis le début 2015, prospère à la faveur de la crise migratoire et la réouverture de la « route libyenne », ces jeunes filles transitant par la Libye et l'Italie<sup>2</sup>.

L'opération de démantèlement du camp, en octobre 2016, a été mise en place avec un traitement différencié des mineurs afin d'assurer au mieux leur protection :

- mise à l'abri des mineurs dans des centres dédiés avant leur transfert vers le système de droit commun de la protection de l'enfance.

---

<sup>2</sup> Ce point est, par exemple, évoqué dans la contribution de l'Ofpra à l'ouvrage « *Mineurs et traite des êtres humains en France - De l'identification à la prise en charge : quelles pratiques ? Quelles protections ?* » de Bénédicte Lavaud-Legendre et Alice Tallon, Chronique sociale (juin 2016)

- encadrement renforcé par des travailleurs sociaux, une attention particulière étant portée, avec l'appui du HCR et de l'OFPRA aux risques spécifiques auxquels les mineurs peuvent être exposés — des signalements au parquet ont dans ce cadre été effectués sur des suspicions d'exploitation (réseaux).

## **FRANCE**

### **Réponses envoyées par ECPAT-France**

#### **Question 3.a**

ECPAT France coordonne un projet européen financé par la DG Justice de la Commission européenne. Le projet « ReACT » développe plusieurs activités, dont une étude portant sur la représentation légale des mineurs à risques ou victimes de traite. Une étude nationale est réalisée dans chaque pays partenaire du projet : l'Allemagne, la Belgique, la France, les Pays-Bas et le Royaume-Uni. Sur la base de ces études, un rapport européen, actuellement en cours de finalisation et disponible dans les prochaines semaines, sera rédigé.

Le résumé exécutif du rapport national français sur la question :

1. Pratiquement toutes les formes de traite à l'égard de mineurs, telles que couvertes par la définition actuelle de la traite (article 225-4-1, code pénal), existent aujourd'hui sur le sol français. La traite de mineurs à des fins de contrainte à commettre des délits ou des crimes est une réalité dans plusieurs zones urbaines majeures couvertes par ce projet (Paris, Lyon, Marseille, Lille). En l'absence de mécanisme national d'orientation spécifique aux victimes de traite, et en l'état des outils statistiques publics, les données disponibles restent limitées. Un certain nombre d'initiatives sont en cours au niveau des services de police, de la justice et des associations pour y remédier. Si des cas concernant des mineurs français ont été rapportés (traite à des fins de proxénétisme notamment), les mineurs non accompagnés étrangers (MNA) sont particulièrement exposés. Les situations de traite à l'égard de mineurs, rapportées dans les différents camps situés dans la région de Calais, sont aussi symptomatiques d'un défaut de réponse pouvant plus largement concerner les zones urbaines informelles (*bidonvilles*) où la présence d'acteurs publics est limitée, et où les acteurs associatifs présents ne disposent pas nécessairement de la formation pour détecter et signaler adéquatement ces situations. La réactivité et les ressources limitées du système de protection de l'enfance et les difficultés pour y accéder sont sources de vulnérabilité accrue. Des situations de mineurs/très jeunes majeurs sans prise en charge, ou bénéficiant d'une prise en charge limitée (ex. placement en hôtel) sont ainsi susceptibles de se tourner vers le travail ou la délinquance pour répondre à leurs besoins quotidiens (*CHAPITRE 4*).

2. S'agissant du cadre juridique et des politiques publiques: la définition de l'infraction de la traite a été modifiée en 2013 afin d'assurer une cohérence avec les standards internationaux applicables; des instructions (par circulaires) ont été données afin d'en assurer un usage plus large par les juridictions; les garanties procédurales et droits des victimes ont également été renforcés en lien avec le droit européen. Les dispositions générales relatives à la protection de l'enfance sont normalement applicables aux mineurs victimes de traite. Un certain nombre d'initiatives récentes, non spécifiques mais néanmoins pertinentes, visent à guider les professionnels dans l'évaluation de la vulnérabilité des victimes (mineures comme majeures), ou encore s'agissant de la représentation légale des mineurs victimes d'infractions

pénales. Les mesures concernant les mineurs inscrites dans le plan national d'action contre la traite (2014-2016) – accès inconditionnel à la protection (soutien spécifique dans le cadre du système de protection de l'enfance et solutions pour les mineurs "à la fois auteurs et victimes"), doivent encore trouver leur traduction sur le terrain. Plusieurs initiatives et projets sont en cours mais ne constituent pas une réponse systématique, à dimension nationale. De l'avis de nombreux professionnels interrogés, de progrès restent indissociables d'une attention politique renforcée, d'initiatives publiques accrues et de la mobilisation de nouveaux moyens humains et financiers, y compris sur la thématique de la traite en général (*CHAPITRE 5*).

3. L'identification et le signalement de mineurs en situation de traite reste un sujet de préoccupation. Peu de situations de MNAs victimes sont actuellement identifiées dans le cadre de l'assistance dont ces mineurs bénéficient en zone d'attente ou lors de l'évaluation de leur situation, lorsque présents sur le territoire. Le manque de formation sur cette problématique peut expliquer pour part les difficultés d'identification. Plusieurs professionnels interrogés admettent ainsi ne pas se sentir réellement en capacité de détecter des situations, et notamment celles de mineurs sous emprise/contrainte. Le défaut de suivi sur certaines situations signalées (ou d'information sur le suivi accordé) est également de nature à susciter un découragement chez certains professionnels. Les lacunes en matière de protection sont particulièrement visibles s'agissant des mineurs victimes de traite à des fins d'exploitation de la mendicité ou de contrainte à commettre des infractions pénales. Leurs besoins de protection peuvent demeurer largement ignorés et insatisfaits. Certains professionnels évoquent aussi un biais et des préjugés culturels, parmi les facteurs susceptibles de freiner ou de faire obstacle à une prise en charge effective de certains mineurs, conformément à ce que prévoient les textes (*CHAPITRE 6*).

4. Le système actuel de représentation légale des mineurs (incluant ici tutelle et administration ad hoc) et son fonctionnement présentent un certain nombre de limites, auxquelles sont susceptibles d'être confrontés les mineurs victimes de traite, au même titre que d'autres mineurs sans parents ni proches présents sur le territoire. Il est insuffisamment fiable, réactif et protecteur. L'accompagnement, dans la durée, et dans l'ensemble des procédures pertinentes fait parfois défaut pour certains mineurs victimes de traite. Le régime de représentation légale actuel par défaut pour certains mineurs confiés à l'aide sociale à l'enfance (tutelle vacante – article 411, code civil) présente un risque de conflit d'intérêt, dans un contexte

de contraintes budgétaires fortes. Une réforme globale pourrait viser la désignation immédiate d'un représentant légal pour l'ensemble des MNAs dès l'identification et la création d'un service national en charge des tutelles pour mineurs. Ce service pourrait notamment assurer la formation initiale et continue des tuteurs et administrateurs ad hoc (y compris sur les aspects relatifs à l'exploitation et à la traite), contribuer au suivi de l'exécution des mandats par les personnes et professionnels mandatés et ainsi garantir davantage de redevabilité (*CHAPITRE 7*).

5. Les professionnels entendus dans le cadre de cette étude ne signalent pas de difficultés particulières dans l'accès à un avocat. Le système d'aide juridictionnelle permet un accès gratuit. Il n'existe pas de spécialisation réelle des avocats en matière de traite à l'égard de mineurs. La spécialisation des avocats est néanmoins en cours sur différents ressorts pour les procédures concernant les MNAs. Par ailleurs, un certain nombre d'avocats travaillent

régulièrement en lien avec des associations spécialisées (traite/exploitation des mineurs). Plusieurs avocats spécialisés en droit des mineurs (civil et pénal) rapportent être intéressés par des opportunités de formations sur la traite, incluant également des informations sur les phénomènes de traite transnationale (ex. informations disponibles sur les réseaux connus pour opérer avec et depuis certains pays et profils des mineurs concernés) (*CHAPITRE 8*).

6. Une complémentarité est attendue entre représentant légal (administrateur ad hoc notamment) et avocats : rencontres régulières avec le mineur, information sur la procédure et ses enjeux, soutien, face aux responsables de leur exploitation, tout au long de la procédure. Leur plein investissement et leur réactivité sont attendus, même si pas toujours constatés en pratique, et ce notamment afin d'assurer la protection du mineur, de faciliter sa participation aux procédures et de former des recours lorsque des pratiques apparaissent contraires aux garanties procédurales et substantielles prévues par le cadre juridique. Les deux catégories de professionnels insistent sur l'importance de la coopération interprofessionnelle et la nécessité d'échanger régulièrement avec les autorités judiciaires, pour une appréhension globale de la situation du mineur, et de travailler de concert avec les professionnels de la protection de l'enfance également. Dans la mise en oeuvre de leurs mandats, plusieurs représentants légaux indiquent pouvoir s'appuyer sur les ressources de leur institution (ex. pour les services de psychologues, avocats partenaires). Parmi les défis récurrents signalés, figurent l'accès à des interprètes qualifiés et la capacité à assurer un accompagnement continu, et ce pour de multiples raisons (*CHAPITRE 9*).

7. Concernant les mineurs contraints à commettre des crimes ou délits: l'autorité judiciaire dispose de l'opportunité des poursuites et peut décider d'alternatives à celles-ci. Le cadre juridique permet par ailleurs la reconnaissance de situation de contrainte et prévoit des clauses d'exonération de la responsabilité pénale. Les avocats entendus relèvent que la contrainte n'est généralement pas documentée ni retenue. Comme observé dans le cadre d'un dossier récent de traite à l'égard de mineurs à Paris, les mineurs concernés sont susceptibles de faire l'objet d'arrestations, d'auditions, de condamnations et de détentions répétées (cf. étude ECPAT 2016). Plusieurs professionnels s'inquiètent de la façon dont le système judiciaire appréhende ces situations. Rien ne fait obstacle à ce qu'une procédure soit ouverte et menée à terme à l'encontre de mineurs en situation d'exploitation/de traite alors que des investigations sont parallèlement en cours concernant les responsables de l'exploitation. Cet état de fait demeure une source de préoccupation pour les institutions onusiennes, le GRETA et le rapporteur national (CNCDH). Plusieurs professionnels estiment ainsi que le système judiciaire demeure aveugle face à la réalité de ces situations. Les limites et défis en matière d'enquête – avec des mineurs sous emprise qui ne coopèrent pas, ne se reconnaissent pas comme victimes – ne peuvent néanmoins pas être sous-estimées. Certains choix procéduraux et pratiques se révèlent aussi préjudiciables pour les mineurs étrangers sans résidence fixe. Des initiatives complémentaires semblent souhaitables sur ce terrain. Elles pourraient rappeler les mesures alternatives aux poursuites envisageables, la nécessité d'adopter des mesures de protection plus systématiques, et d'impliquer/travailler avec les parents, lorsque présents. Des préoccupations existent également à l'égard certaines politiques pénales locales (ex. à Lyon et Marseille), avec des poursuites fréquentes sinon systématiques à l'encontre de mineurs/jeunes majeurs pris en charge par l'aide sociale à l'enfance et finalement considérés comme adultes (poursuites pour faux et usage de faux et/ou escroquerie). Les investigations dans ce type de procédures sont peu susceptibles de mettre à jour d'éventuelles situations d'exploitation ou de traite, et de cibler prioritairement

les réseaux et personnes responsables. Ces procédures exposent les mineurs/jeunes majeurs, à une incarcération, et à des dommages demandés par les services de l'aide sociale à l'enfance (se constituant partie civile). Par suite de condamnation, certains se retrouvent *in fine* sans identité légale opposable ou sans document pour en justifier sur le territoire français, sans prise en charge ni scolarisation (celle-ci pouvant être interrompue), et peuvent par ailleurs rencontrer des difficultés dans l'accès aux aides normalement réservées aux adultes (ex. en matière d'hébergement) (*CHAPITRE 10*).

8. Il n'a pu être évalué dans quelle mesure les difficultés relatives à l'évaluation de l'âge constituent un obstacle à la participation des mineurs identifiés comme victimes de traite dans le cadre d'une procédure judiciaire. Les expertises relatives aux documents d'identité et concernant l'âge peuvent être particulièrement longues. Elles accentuent indirectement la vulnérabilité des MNAs à différentes formes d'exploitation, retardant l'accès à une protection et à une assistance éducative effectives. Plusieurs professionnels interrogés rapportent des remises en cause fréquentes de l'identité et de l'âge déclarés, aucune présomption de minorité ne s'appliquant en pratique, et notamment dans l'attente des résultats des vérifications diligentées (localement, certains services de l'aide sociale à l'enfance font systématiquement appel des placements de MNAs ordonnés par le juge des enfants). Les méthodes de détermination de l'âge – par examens radiologiques osseux – ordonnées à différents stades des procédures, ont récemment trouvé un encadrement législatif (article 388, code civil), avec notamment une condition d'opportunité (en l'absence de documents d'identité valables et lorsque l'âge allégué n'est pas vraisemblable), un pouvoir d'initiative exclusivement confié à l'autorité judiciaire et une exigence d'accord préalable de l'intéressé(e). Le recours à ces expertises et leur fiabilité continuent d'être contesté par la CNCDH, le Défenseur des droits et d'autres autorités indépendantes, nationales et internationales. Les pratiques locales restent très hétérogènes et sources d'inégalités de traitements. Les professionnels entendus rapportent des expériences particulièrement traumatiques pour certains mineurs dans le cadre de ces expertises (*CHAPITRE 11*).

9. Pour les mineurs ayant pu être exposés à la traite et à l'exploitation, l'accès à une protection sera souvent dépendant de l'ouverture d'une procédure pénale (cf. étude ECPAT 2016). Les professionnels suggèrent la nécessité, outre celle de signalements plus systématiques, d'une attention plus soutenue à l'égard des besoins de protection en parallèle de la procédure ; aux risques de disparition dans ce contexte ; à l'accès aux soins et à un soutien psycho-social ; et à la situation des mineurs une fois la procédure judiciaire terminée (protection contre des représailles, accès aux dommages alloués (notamment lorsque les mineurs vivent à l'étranger ou y ont été relocalisés)) (*CHAPITRE 12*).

10. Il n'existe pas de procédure de détermination de l'intérêt supérieur pour les mineurs ayant besoin de protection, dont ceux victimes de traite, ni de protocole interinstitutionnel en ce sens. Les dispositions existantes s'attachent notamment au droit du mineur à être entendu dans les procédures qui le concernent. Certaines envisagent aussi une évaluation générale de la situation du mineur, une coopération professionnelle dans ce contexte, devant aboutir à des décisions en phase avec son intérêt. La désignation, lorsqu'applicable, d'un tuteur/administrateur ad hoc, capable de jouer le rôle d'adulte référent, strictement centré sur l'intérêt du mineur et au fait de sa situation, apparaît essentiel. Certaines dispositions récentes visent une meilleure anticipation de la majorité (18 ans) et s'attachent à organiser l'accompagnement des mineurs pris en charge vers

l'autonomie et des solutions durables. Un certain nombre de professionnels restent néanmoins réservés sur la traduction de ces dispositions sur le terrain. Plusieurs professionnels sociaux insistent au contraire sur les restrictions en matière de prise en charge prolongée (contrat jeunes majeurs), sous l'effet de contraintes budgétaires croissantes. En termes d'accès au séjour, plusieurs opportunités existent en droit pour les mineurs étrangers victimes de traite/d'exploitation, et notamment au titre d'une éventuelle coopération avec les services judiciaires. Il est attendu d'une réforme récente et des instructions en la matière qu'elles facilitent l'accès à un titre de séjour sur ce fondement (article L316-1, CESEDA). Les entretiens menés suggèrent néanmoins un besoin d'information important sur cette disposition spécifique (*CHAPITRE 13*).

11. Les entretiens menés suggèrent que la protection internationale (asile/protection subsidiaire) n'est pas l'angle prioritaire pour les professionnels accompagnant des mineurs étrangers victimes de traite. Plusieurs facteurs jouent certainement en ce sens: opportunité limitée, fonction des situations et parcours individuels, compte-tenu de la jurisprudence actuelle (sur la protection conventionnelle au titre de l'appartenance à un "groupe social"), défaut d'information des professionnels de la protection de l'enfance sur la procédure d'asile pour les mineurs (et la possibilité même de déposer une demande lorsque mineur). Des initiatives (OFPRA) et partenariats spécifiques (aide sociale à l'enfance (ASE)/associations) visent actuellement à remédier à ces difficultés. Pour les mineurs concernés, l'accès à la protection internationale présente notamment l'intérêt de permettre une résidence stable, lorsqu'ils/elles se voient reconnaître le statut de réfugié (*CHAPITRE 14*).

12. Les expériences recueillies auprès des professionnels entendus confirment la pertinence des recommandations formulées jusqu'ici par le rapporteur national (CNCDH), le Défenseur des Droits (DDD), ainsi que celles issues de travaux de recherche et d'évaluation cités tout au long du présent rapport. Celles figurant en conclusion s'inscrivent en complément et prennent notamment appui sur les réflexions et les suggestions des professionnels rencontrés. Elles s'attachent aux aspects suivants : formation des professionnels, futur du système de tutelle/d'administration ad hoc (tel qu'applicable aux mineurs victimes de traite); réponse judiciaire à la situation des mineurs contraints à commettre des infractions pénales. La coopération internationale, l'interprétariat, et le partage d'informations (jurisprudence) comptent également parmi les domaines où des réponses complémentaires sont attendues (*CHAPITRE 15*).

13. Ce rapport s'appuie sur l'analyse de références juridiques, de documents de politiques publiques, des études disponibles (cf. ANNEXE), ainsi que sur des entretiens de terrain (références à jour du 1er juillet 2016). 55 entretiens ont été réalisés avec des professionnels sociaux et juridiques (juges, avocats, administrateurs ad hoc, professionnels de l'aide sociale à l'enfance, représentants de la Croix-Rouge Française et d'associations), entre mars et mai 2016. Ces entretiens ont eu lieu sur différents ressorts (notamment à Paris, Lille, Lyon et Marseille). Concernant la représentation légale comme d'autres aspects (ex. l'identification), et eu égard à l'absence de dispositifs spécifique pour les mineurs victimes de traite, ce travail fait largement référence au système de protection de l'enfance, et aux dispositions applicables à la situation des mineurs non accompagnés étrangers, particulièrement exposés à la traite et à l'exploitation (*CHAPITRES 16/17*).

## GEORGIA / GEORGIE

### Question 3

Nowadays new draft law on International Protection is under parliamentary hearings being approved on two hearings. The new draft law enshrines special procedures for the groups of persons with specific needs, counting unaccompanied minors, victims of sexual exploitation and/or sexual abuse, etc.

Under Georgian legislation specific needs of minor asylum-seeker are addressed considering the best interest of a child. If a child arrives alone in Georgia MRA immediately addresses the relevant guardianship/custodianship state body: about the accommodation of a minor and appointment of a guardian/custodian. A guardian/custodian is appointed taking into consideration all circumstances of the case and the best interest of the child. Asylum application is lodged by a guardian/custodian.

Refugee Status Determination (RSD) procedure is carried out taking into account child's age, development level and mental state.

MRA provides guarantees for protection children from further exploitation. Those guarantees include: accommodation of a child considering her/his best interest (providing accommodation with her/his relatives, in Martkopi Reception Centre or in the Special Centre of Ministry of Labour, Health and Social Welfare of Georgia; appointment guardian/custodian.

Considering minor asylum-seekers' cases, MRA have faced challenges for providing psycho-social rehabilitation for the minors. Nowadays working on this issue is on-going process among state actors. In addition, MRA has cooperation with Georgian Centre for Psychosocial and Medical Rehabilitation of Torture Victims under which the centre offers its service to the beneficiaries of the Ministry.

When it comes to the protection and assistance of minor victims of sexual exploitation, the role of the State Fund for the Protection and Assistance of Victims, Statutory Victims of Human Trafficking (established in 2006) and Social Service Agency (SSA) under the Ministry of Health, Labor and Social Affairs of Georgia should be mentioned. The State Fund protects the rights and interests of trafficking victims (statutory victims) and provides them with: a) Shelters (in Tbilisi and Batumi), b) Legal aid, c) psychological and medical assistance, d) Rehabilitation and reintegration measures and e) One-off Compensation of 1000 Gel. These services are free of charge. Georgian authorities respectfully note that the services of the State Fund are child tailored and the shelters are equipped to receive minor victims of human trafficking as well as dependent minors (aged under 18). There are special rooms and equipment for children in each shelters.

Within the current setup of the State Fund system in Georgia, unaccompanied children who are the victims of THB are under legal guardianship of SSA and SSA takes immediate measures to place them in family-type care (e.g. foster care, small group home, etc.) and considers the State Fund Shelters as one of the available temporary resource for accommodation of unaccompanied child. The accompanied children victims of trafficking, including sexual exploitation, and children accompanying the parents who had been trafficked, are provided with the State Fund services. When such a need arises, they are also entitled to receive the

appropriate accommodation, age specific education and support programs tailored to their needs. The child victims or accompanied minors placed in the shelters of the State Fund are provided with different services in order to ensure their wellbeing and provide them with proper education (formal/non-formal) through the special programs.

Additionally, since August 7, 2015 the newly recruited babysitters/care-takers in THB shelters ensure to make more child-friendly environment in shelters. The main tasks of the babysitter are to take care of the children and support them in formal/non-formal education - take minors for a walk, ensure their safety while playing with other kids, help them with home-work in needed, etc.

The State Fund recruited 2 babysitters/caretakers in Tbilisi and Batumi shelters to ensure the appropriate care to the minors and let the mother be occupied with other activities as well.

Also, on August 10, 2015 Director of State Fund approved the individual rehabilitation-reintegration plan for minor victims/statutory victims of human trafficking and children accompanying their parents who are the beneficiaries of Shelter.

## **GERMANY / ALLEMAGNE**

### **Question 3.a**

aa) Where unaccompanied minors are concerned, the responsible youth welfare office (*Jugendamt*) is under obligation to take into care the minor and to commence a clearing procedure.

This clearing procedure serves to clear up all questions that must be dealt with in order to establish the need for support that the unaccompanied minor may have. Once this need for support has been identified, the necessary steps will then be determined in an aid and assistance plan (*Hilfeplan*). The aspects the clearing procedure will deal with include, for example:

- The age of the minor,
- The minor's health, mental and physical condition,
- The minor's identity,
- The family members of the minor – as the case may be, the minor will be reunited with the family,
- The placement of the minor in accordance with his or her needs,
- Perspectives that the minor has for his or her future.

Upon the need for support having been established, the necessary steps will be recorded in an aid and assistance plan (*Hilfeplan*). The minor will subsequently be placed in accordance with his or her needs: as a general rule in a facility, social education residential group or, in individual cases, with a foster family.

These requirements are implemented as follows at the *Land* level: Thus, *Mecklenburg-Western Pomerania* reports, for example, that under-age refugees in initial reception centres and collective accommodations of the Land will be accommodated, as a matter of principle, only together with their families or other close relatives. Any under-age refugees coming to *Mecklenburg-Western Pomerania* as unaccompanied minors will be placed in accordance with



the statutory requirements incumbent on youth welfare and will be provided the aid and assistance that follows upon their being taken into care.

Should any adolescents report that they have been the subject of sexual attacks, the *Saarland* has reported that they are afforded the opportunity to seek specialist counselling; adolescents affected will be placed in suitable institutions of youth welfare. In cases in which it is apparent that children and adolescents are traumatised, they will be placed as in-patients in a psychiatric hospital specialising in the treatment of children and adolescents and will be treated therapeutically.

In this context, it is to be noted that the protection of victims is organised such that several actors provide it, meaning that, for example, the police, public prosecutor's office, foreigners' authority and authority providing services and payments, youth welfare offices, employment agencies, job centres, and specialist counselling centres all work together. *Lower Saxony* has emphasised that the cooperation is particularly close with the locally competent youth welfare office which ensures that the unaccompanied under-age refugees are immediately taken into care and which is also the contact partner where measures are required, in the field of youth aid, to help traumatised children and adolescents. The staff have close-knit collaborative structures with organisations such as "*Frauen helfen Frauen*" (women helping women), "*Pro Familia*" (advice centre for pregnant women), "*Lesben und Schwulenverband*" (Association of Gays and Lesbians), "*Kobra*" (consultancy organisation for women and enterprises) and many others. Moreover, anyone suspected of committing such an offence immediately will be relocated to a different reception centre run by the *Land* reception authority (*Landesaufnahmebehörde*).

bb) Coordinated action is taken by the child and youth welfare organisations, regardless of which nationality the children may have, since this is a task of local self-government pursuant to Book VIII of the Social Code (SGB VIII). Pursuant to the European Directive laying down standards for the reception of applicants for international protection (Directive 2013/33/EU of 26 June 2013), the states receiving such persons are to provide adequate support taking into account the particular situation of the persons applying for international protection. In order to recognise any need for protection as early as possible, the employees of the integration offices of the initial reception centres operated by the *Land* undergo the corresponding awareness-raising measures. In this context, they work together closely with the employees of the youth welfare office. It is ensured particularly that persons in need of protection will have access to medical care, including any psychological care that may be suitable. Fundamentally, the regular institutional emergency centres and trauma emergency centres are available for these tasks.

cc) Where law enforcement is concerned, it is to be noted that the principles of affording protection to victims, which must be complied with in all cases of sexual abuse and sexual exploitation in order to safeguard professional police work (e.g. interviews by specially trained police officers, prevention of secondary victimisation, video interviews), apply generally to refugees / asylum seekers.

### **Question 3.b**

The aid and assistance plan (*Hilfeplan*) mentioned above determines the specific measures and the particular placement that will comply with the needs of the party affected (e. g. trauma therapy or such like) – and will also determine the necessary preventative measures that should be taken (accommodation in a certain facility affording protection and such like).

Examples of measures that were taken in actual practice include the following:

- Spaces were equipped with alarms to ensure that, should they be entered by unauthorised persons, the security staff is alerted,
- Removal of the perpetrator and his/her family to a different rural district,
- Removal of the victim and his/her family to a different rural district
- Contact with the victims' organisations "WEISSER RING e.V." or "Mitternachtsmission," e.g. with the objective of placing mothers and children affected by violence in a protected flat, respectively in a women's' shelter.

At the level of the *Land*, the actors are involved in a general dialogue across the boundaries of institutions as concerns sexual violence (abuse / exploitation) in refugee accommodations. The reports from *Baden-Württemberg* and *Saarland* may serve as examples: In the rural district of Reutlingen (Baden-Württemberg), a working group was formed in March 2016 with the involvement of the police, the municipal agency for public order (*Ordnungsamt*), the office of the county district commissioner (*Landratsamt*), intervention agencies, and others, for the purpose of preparing recommendations for action regarding the prevention of violence (including sexual violence) against children and women in refugee accommodations and regarding ways of dealing with such violence. Other rural districts have also instituted working groups or round-table meetings bringing together various actors, among them also the police.

In the *Saarland*, an inter-ministerial working group was formed for the sphere of protecting refugee children, "Land Youth Welfare Planning Plus" ("*Landesjugendhilfeplanung Plus*"), which is comprised of representatives from all of the authorities and institutions involved in this sphere of activities. The working groups will develop strategies for action, for example, and measures serving to provide and care for unaccompanied under-age foreigners. Additionally, the "Atlas of Refugees in the Saarland" ("*Flüchtlingsatlas Saarland*") is available, an overview of data relevant in terms of integration policy that can be retrieved online. Where children or adolescents are subject to prostitution, their needs are covered by victim aid institutions such as ALDONA e. V. to take follow-on measures serving to protect the affected parties.

In order to protect the children affected from (further) exploitation / (further) abuse and to grant support to the victims, they will additionally be transferred to various counselling and care services such as the social counselling services for migrants (*Migrationssozialberatung*), youth migration services (*Jugendmigrationsdienst*), or integration pilots (*Integrationslotsen*).

Inasmuch as claims to compensation of damages are involved, victims of sexual abuse / of sexual exploitation may be entitled to such a claim against the perpetrator pursuant to section 823 (1) of the *Bürgerliches Gesetzbuch* (Civil Code – BGB), in particular where the sexual exploitation / sexual abuse violated their physical integrity, their health, or their

freedom. A corresponding claim to compensation of damages is also an option pursuant to section 823 (2) of the Civil Code (BGB) read in conjunction with the relevant national stipulations of criminal law (specifically sections 176 et seqq. of the Criminal Code (StGB)), and pursuant to section 825 of the Civil Code (BGB) (Inducing others to sexual acts). Pursuant to section 253 (2) of the Civil Code (BGB), the claim to compensation also comprises intangible damages (compensation for pain and suffering). These types of claims will be asserted by the legal representative of the child or adolescent, as a rule by the legal guardian appointed by the family court. In many cases, the youth welfare office is appointed legal guardian.

### **Question 3.c**

The municipalities are responsible for providing the specific services. Where the challenges listed above are concerned, the qualification of the experts involved play an exceptionally important role.

In order to improve the protection of victims where human trafficking in minors is concerned, the Federal Ministry for Family, Senior Citizens, Women and Youth (BMFSFJ), working together with non-governmental organisations and experts, has drafted a concept for cooperation throughout the Federal Republic. The objective is to ensure that persons under age who are potentially affected, or who in fact are affected, by human trafficking have adequate protective measures and comprehensive help measures at their disposal. The cooperation concept applying throughout Germany concurrently is to contribute to effectively combating this crime. The draft of the cooperation concept is scheduled to be finalised and coordinated by the end of September and subsequently is to be presented to the *Länder* as a recommendation on how they might cooperate amongst themselves.

At the *Land* level, the aspects that may be problematic are regarded to be, *inter alia*, the lack of legal knowledge on the part of the unaccompanied under-age refugees, language barriers and other cultural backgrounds, low willingness to file charges, lack of trust in the police due to negative experiences made in the respective country of origin. Accordingly, the actors involved at this level regard the information, in a manner adequate for the target group, of the children who have fled their home countries and the children seeking asylum, along with their families, to be of utmost importance: Their rights must be explained to them, as must the functions and allocation of tasks between the government and the authorities implementing governmental policy (e.g. the police and youth welfare office), and they must learn of the opportunities they have to obtain help and support in the event of attacks and abuse, and how they can avail themselves of such opportunities.

## **GREECE / GRECE**

### **Question 3**

Right now Greece is struggling to coordinate all kind of responses towards migrant and asylum seeking children. The scope of concern is mainly unaccompanied minors. At a large scale NGOs have undertaken the role to cater for children's needs and the State is in a process to set the adequate child protection approach and standards.

### **Question 3.a**

Services to migrant and asylum-seeking child victims of exploitation or abuse are offered by NGOs, as they maintain interpreters and psychologists, in the context of a wide range of protection provisions for children (shelter, guardian, etc.). Specialised mental health services are also delivered by a NGO where all professionals are culturally competent. Therefore, the measures taken to address the situation depend heavily on the NGO (or sometimes state actor) that is connected to the victim. Though law provisions equally apply for all children in the Greek territory, sometimes a reminder for an equal implementation is needed. For example, in some cases shelters' personnel were reluctant to report the rape of children who were hosted in there, so as not to be involved with the police or any negative media attention about the safety conditions of the shelter.

### **Question 3.b**

Law provides that measures can be taken to safeguard the protection of the victim, i.e. placement in safe environment away from the perpetrator, for as long as their lives, personal, physical and sexual integrity is in danger (article 352 A par. 4 Penal Code and Presidential Decree 233/2003). Moreover, victims of sexual abuse and exploitation can seek redress from the perpetrator according to article 932 of the Civil Code for moral damage. In case the perpetrator is unknown or not found guilty or he/she are not able to compensate the victim, then the latter is able to apply for redress to the Hellenic Authority on Compensation of victims of criminal acts with a required 100euros deposit.

### **Question 3.c**

Please see above on the perplexities of the issue and the lessons learnt; in brief the main challenge was (and by and large still is) to be able to provide for an remarkably high number of incoming refugee children, from which a considerable proportion is unaccompanied in the context of addressing the massive refugee/immigration wave in the Mediterranean in 2015-2016 given the particularities of unaccompanied minors reservation to authorities, their lack of information about their rights and their commitment to continue their journey. Providing well-trained professional aid and care and constant improvement of services provided is a real challenge especially given the current economic crisis and its implication on resources' availability.

## **HUNGARY / HONGRIE**

### **Question 3**

In the course of asylum and immigration proceedings minors – be it either an unaccompanied minor or a minor accompanied by a family member (by an adult responsible for him/her whether by law or custom) – are considered to be vulnerable persons with special needs due to their individual situation. (Section 2 (k) of Asylum Act; Section 2 (t) of ESTCN))

In line with the Convention on the Rights of the Child the following shall fall into the personal scope of the Child Protection Act:

- unaccompanied minors under the Asylum Act if the asylum authority has determined them to be minors (Section 4 (1) (c) of the Child Protection Act). Asylum seeking minors and unaccompanied minors recognized as refugees/beneficiaries of subsidiary or temporary protection shall have equal rights with children who are Hungarian citizens; furthermore

- non-Hungarian children staying in the territory of Hungary if failure of their temporary placement, educational supervision, or the assignment of a guardian for them would endanger the children or would cause inevitable damages (Section 4 (3) of Child Protection Act). Unaccompanied minors not seeking asylum shall also fall into this personal scope.

The Prosecution Service, with its *primary function of contributing to criminal justice by applying laws*, is a participant of the child protection alert system in accordance with Section 17 (1) (e) of the Child Protection Act. In this role during criminal proceedings the Prosecution Service shall send indicative letters to the child welfare service if the welfare of children – including accompanied or unaccompanied immigrant or refugee children falling within the scope of the Child Protection Act – is endangered. The Prosecution Service may also initiate an administrative authority proceeding if a child abuse, gross child negligence or other grave cause of endangerment (crimes against children) occurs or a child seriously endangers himself/herself by his/her own conduct.

Concerning criminal proceedings, if the victim is below 18 years of age at the time of the criminal proceeding commences, he/she shall be considered a vulnerable victim pursuant to 62/2 paragraph 2 of Act XIX of 1998 on the Criminal Procedure Code (hereinafter referred to as Criminal Procedure Code). This rule shall be applicable inter alia to an immigrant or refugee victim who has not reached the age of 18 irrespective of the criminal offence committed against him/her.

The law provides victims of such age with the legal status of vulnerable victim and ensures that they would enjoy every procedural privilege relating to this status without meeting any additional requirements and having regard to the victim's age reached at the commencement of the criminal proceeding. This special status does not terminate even if the victim turns his/her 18 during the criminal proceeding.

### **Question 3.a**

Child protection laws ensure full care and service for unaccompanied minors with the same quality as the care provided in children's homes for Hungarian citizens, but with necessary differences in religious and cultural habits of migrant children (e.g. food). With amendments in child protection laws and Act LXXX of 2007 on of Asylum entered into force late summer and autumn of 2015, administration deadlines became shorter in cases of asylum-seeker unaccompanied minors and the children's homes caring for them, also the designated court of guardianship, child protection specialized service and the children's homes were financially empowered with Government's Decrees.

### **Question 3.b**

No relevant information available on programmes in this aspect.

### **Question 3.c**

Main challenges are as follows:

- It's difficult to clearly identify family relations which may result in determining the adult responsible for a minor's supervision on the basis of oral statements. Such situations

when minors arrive in the company of their uncles, but they are bearing different names may confuse the asylum authority staff and make the clarification of family ties difficult.

- High rate of absconding is a hindering factor both in enhancing the efficiency of preventive and protective measures and in gathering information on abuse cases if there were any.

- Raising the number of people accommodated above the maximum capacity is not subservient, but if it cannot be avoided raising the number of staff is also necessary.

As mentioned in 1) b), the main problem is linguistic diversity; many children cannot communicate in the absence of any private interpretation, nor an intermediary language (English) which makes any therapeutic effort quite difficult. Another issue is that the majority of unaccompanied minors spend only a few days in the children's home before leaving, so they can receive less from the therapies, occupations and other programs.

## **HUNGARY / HONGRIE**

### **Replies sent by "Hope For Children" CRC Policy Center**

#### **Question 3**

First of all, one of the key challenges in identifying migrant and asylum-seeking children as victims of sexual exploitation and providing protection measures for them is that they spend only short period of time in Hungary. On the one hand, there are other priorities on both sides, on the other hand, there is no time to develop trust with an officer which is a prerequisite for sharing stories and asking for help in case of sexual exploitation.

Then, there are other aspects to consider as well. On 15 September 2015 Hungary proclaimed the "state of crisis caused by mass migration" which is actually a state of emergency providing opportunity to take measures derogating from their human rights obligations. The legislation accepted in order to handle "the state of crisis" introduced several derogations from the human rights of asylum seekers and asylum-seeking minors which are not limited to the extent strictly required by the exigencies of the situation. According to the new law, the irregular cross of the border with or without trying to breach the razor-wire fence on the border is a crime and in case of families the children are taken away from their parents during the criminal procedure (and detention) and placed in child-care institutions, while the most often used sanction of this crime is expulsion up to two years (which is effective in the whole territory of the EU). The special provisions of the Criminal Code on juveniles - minor between the age of 14 and 18 according to the Hungarian law - does not apply, therefore they are treated and prosecuted as adult offenders (these provisions are still in force). Children on the move arriving to Hungary are probably reluctant to report any crime in a situation like this.

## **ICELAND / ISLANDE**

#### **Question 3**

As stated in the reply to Q 2a) it is safe to say that this has been secured.

#### **Question 3.a**

The Directorate of Immigration notifies the Government Agency for the Child Protection and the local child protection services on each child that is identified at the boarder or where ever they may be found. The local child protection services is responsible for providing the

appropriate services to the child's specific needs. The Government Agency for Child Protection monitors this in individual cases as well as provides the local child protection with specialised assistance, e.g. appropriate foster parents that have received training. Training programs for foster families are now under way.

### **Question 3.b**

As stated before the children receive appropriate support such as psychological therapy, trauma focused treatment if necessary, and safe accommodation without discriminating between Group 1 and 2.

### **Question 3.c**

Iceland believes that professional forensic interviewing in child friendly setting is a prerequisite for obtaining disclosures, in particular in cases of trafficking. The child's narratives is the key to uncovering the case and the child is not likely to tell unless he/she trusts the interviewer/agency that is responsible for the interview.

## **ITALY / ITALIE**

### **Question 3**

With the resources made available by the Italian Ministry of Interior many projects of local authorities for the reception of asylum seekers, refugees and beneficiaries of subsidiary protection are funded.

In parallel to migration policies, a welcome system is in place centered on the network of local authorities that implements projects of 'integrated reception' in the territory: the protection system for asylum seekers and refugees (SPRAR).

To activate the system, local authorities may use the financial resources made available by the Ministry of Interior through the National Fund for asylum policies and services. With this tool, they are awarded grants for local authorities that present projects for the reception of asylum seekers, refugees and beneficiaries of subsidiary protection.

The system is characterized by:

- the public nature of the resources provided and the entities responsible for the reception, and by the central government according to a multilevel governance approach;
- the voluntary participation of local authorities to the network of hospitality projects;
- mutually reinforcing policies in the area with the third sector that makes a vital contribution to the implementation of interventions.

The reception projects, presented on the basis of specific calls for proposals are submitted to a Commission of evaluation made up of representatives of the Interior Ministry, a representative of the National Association Italian municipalities (ANCI); a Representative of the Union of Italian provinces (UPI); a representative of the UN High Commissioner for Refugees (UNHCR) and a representative of the regions.

The Ministry of the Interior provides guidelines, which specifies the criteria and procedures for submitting applications for access of local authorities to the annual breakdown of the National Fund for asylum policies and services.

As regards protection, an example of Italian best practice could be represented by the Italian Council for Refugees - CIR (Consiglio Italiano per i Rifugiati), a nonprofit and nongovernmental organization (Onlus) formed in 1990 with the support of UNHCR, with the mission to defend the rights of refugees and asylum seekers. Among CIR's founding organizations and members of the Board of Directors are Italy's most important humanitarian organizations and trade union confederations.

Among CIR activities', the most significant are:

- Direct assistance to individuals:
  - Legal guidance: reception at the border, access to and assistance during the asylum process; interventions with the authorities;
  - Social support: access to rights; orientation about Italy, integration assistance, family reunification;
  - Reception and care for torture victims;
- Public awareness and education;
- Promotion of the right to asylum.

CIR, long involved with the issue of transit countries affected by thousands of refugees coming principally from Sub-Saharan Africa, also carries out a series of activities aimed at improving conditions for refugees, asylum seekers and migrants in Libya and Algeria, and providing "capacity building" assistance to institutions in those two countries.

Concerning the prevention of sexual abuse and exploitation of migrant children, Italy avails of reintegration projects of victims of sexual and other types of exploitation carried out thanks to two specific anti-trafficking laws and provisions (art 13 of law 228/2003 and art 18 of legislative decree 286/98) indicate the following.

Referring to 2015 and 2016 (I semester), here enclosed the following data – collected by the national Observatory on intervention on trafficking - concerning **different types of sexual exploitation of children**:

## 2015

types of sexual exploitation	Number of children involved (TOT. 82)
unknown	2
begging	2
Other **	31
Illegal Economy for third parties	1
labor	3
multiple	9
sexual	31
smuggling	3



\*\* The projects by selecting "Other" refers to children who have emerged before the exploitation was perfected by the criminal network, as identified as a victim of trafficking upon arrival in Italy or in the system of international protection.

## 2016

types of sexual exploitation	Number of children involved (TOT. 93)
unknown	2
begging	2
Other **	21
Illegal Economy for third parties	9
labor	4
multiple	7
sexual	41
smuggling	7

\*\* The projects by selecting "Other" refers to children who have emerged before the exploitation was perfected by the criminal network, as identified as a victim of trafficking upon arrival in Italy or in the system of international protection.

Moreover, some important measures have been adopted recently. First of all on the 26th February 2016 the **first National Plan of Action against Trafficking** was approved. The Plan has two main directions: the fight against trafficking which is entrusted to the Police and the prevention and protection of the victims which is entrusted to the social services and the accredited voluntary sector. The overall anti-trafficking system will be coordinated by National Referral Mechanism that will be active at national and local level.

In case of minors victims of trafficking any procedure will be based on the principle of the best interest of the child.

Concerning the training of the involved actors guidelines for the victims' identification have been approved concerning both irregular migrants and asylum seekers as well as **operational procedures for the first reception and for the care of minors**. The latter are the results of a European project called **AGIRE** [http://images.savethechildren.it/f/download/protezione/agire/Me/Methodology\\_EN.pdf](http://images.savethechildren.it/f/download/protezione/agire/Me/Methodology_EN.pdf) and they provide indicators in relation to the following elements: control exercised by exploiters; a child's isolation due to the presence of exploiters; indicators to be detected at the border as child enters the country. They also indicate operational procedures to be used in order to interview the child in different locations (e.g. on the street, at shelters).

The Plan dedicates a special attention to the situation of unaccompanied foreign children that are identified as particularly vulnerable in relation to trafficking. An important part of the Plan is devoted to the training that is address to all those – public servants and individuals who work for the voluntary sector – who come into contact with potential victims of trafficking. The enlargement of foster care is also included as well as the creation of a network of voluntary legal guardians who can support unaccompanied children in different stages of their life alongside specific measure for the social integration of these children at school and professional level.

Concerning the obligation to inform victims of their rights (including the possibility to request international protection and to avail of the reintegration projects established by art. 18 D.lgs.286/98) the Plan foresees the approval of specific guidelines. The guidelines will also serve the scope of coordinating the system of protection against trafficking with the protection system for unaccompanied foreign children.

The Plan also includes awareness raising campaigns addressed to children who are potential victims of trafficking as well as to students (in particular boys) about the trafficking phenomenon and gender relations).

Among information and awareness raising campaigns the Ministry of the Interior. Save the children, UNHCR with the contribution of the European Union of produced **a guide for unaccompanied foreign children** in the form of a leaflet aimed at explaining the rights in relation to legal guardianship and international protection, including the possibility of asking for asylum in another EU country. Such information is very important in order to prevent children to flee from reception centres to go to another EU state.

## **LATVIA / LETTONIE**

### **Question 3**

The laws and regulations of Latvia provide a specific procedure and conditions of reception, taking into account the best interests of a child, for vulnerable asylum seekers. According to the provisions of the Law on OCMA, an institution (OCMA) examines whether an asylum seeker has the specific procedural or specific condition of reception needs. In accordance with the Asylum Law the Orphans' court shall immediately decide on the appointment of a guardian to unaccompanied minors, as well as ensuring the appointment of a guardian or foster family to the child. Furthermore, the accommodation center for asylum seekers (which includes minors) provides housing, taking into account the asylum seeker's admission requirements, and ensures protection of their physical and mental health.

As Latvia has no experience with children submitted to sexual exploitation or abuse affected by the refugee crisis, specific actions in this regard have not been conducted.

In accordance with the Law On Social Services and Social Assistance<sup>3</sup> of December 2nd 2015, the Decree of the Cabinet of Ministers of No. 759 "the Action Plan on Relocation, Resettlement and Reception in Latvia of Persons in Need of International Protection"<sup>4</sup>, children who are identified as victims of sexual exploitation or abuse have the right to claim on State funded social rehabilitation services:

- as victim of sexual exploitation – human trafficking victims;
- as victim of sexual exploitation or sexual abuse.

---

<sup>3</sup> Law On Social Services and Social Assistance, adopted 31.10.2002. ("Official Gazette". 168 (2743). 19.11.2002.) [into force since 01.01.2003.]; <http://likumi.lv/ta/id/68488-socialo-pakalpojumu-un-socialas-palidzibas-likums#pl3>

<sup>4</sup> 2 December 2015 The Decree of the Cabinet of Ministers of No. 759 "Action Plan for the Relocation and Receipt in Latvia of Persons in Need of International Protection" .("Official Gazette", No. 238.04.12.2015); [came into force on 02.12.2015.]. <http://likumi.lv/ta/id/278257-ricibas-plans-personu-kuram-nepieciesama-staiptautiska-aizsardziba-parvietosanai-un-uznemsanai-latvija>

The identification process of a child as a victim of sexual exploitation (human trafficking victims) is regulated by Cabinet Regulation No 889 on "Procedures by which victims of human trafficking receive social rehabilitation services and the criteria for recognizing a person as a victim of human trafficking"<sup>5</sup>. Moreover, the process of identifying a child as a victim of sexual exploitation or sexual abuse is regulated by Cabinet Regulations No 1613 on "Procedures for the necessary assistance is provided to a child who has suffered from illegal acts". Children who are recognized as victims of sexual exploitation or sexual abuse have equal rights to receive social rehabilitation services (regardless of their age, sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status).

### **Question 3.a**

As Latvia has no experience with children submitted to sexual exploitation or abuse affected by the refugee crisis no specific measures have been taken to address the situation or cater the specific needs of children who are migrants or asylum seekers (and victims of exploitation or sexual abuse).

In accordance with Section 3, Paragraph 7 of the Social services and social assistance Law children who have been recognized as asylum seekers with special admission requirements by competent institutions have the right to receive social rehabilitation services the same as children who are victims of abuse.

The right to receive these services is also for children who do not belong to the groups enlisted in Section 3 of the Social services and social assistance law if the responsible institutions have provided a statement on the need for the social rehabilitation services.

According to the law, social rehabilitation service is a set of measures aimed at the renewal or improvement of the social functioning abilities in order to ensure the recovery of social status and integration into society. It includes services either at the place of residence of a person and/or at a social care and social rehabilitation institution.

### **Question 3.b**

If there are signs that a child has experienced violence or there exists suspicion about the existence of violence regardless of the type of violence (sexual, physical, emotional abuse), a child has the right to receive state funded social rehabilitation service. That includes either a psychologist's individual consultations regardless of the child's location or place of residence, or accommodation in a specialized social rehabilitation institution, which ensures psychological assistance, social rehabilitation, safe shelter for the night, catering and other support for children in crisis.

### **Question 3.c**

In order to decrease the consequences caused by illegal acts the institution, which is providing the rehabilitation follows such procedures:

---

<sup>5</sup> Amending Cabinet Regulation No 840, adopted 11.12.2012. ("Official Gazette ", 197 (4800)," 14.12.2012). [into force since 01.01.2013.); <http://likumi.lv/ta/id/253419-grozijumi-ministru-kabineta-2006-gada-31-oktobra-noleikuirios-nr-889-noteikumi-pai-kartibu-kada-cilveku-tirdzniecibas-upuri-sanem...>

- 1) informs the child about the possible manifestations of the threat of abuse and prepares the child for self-defense;
- 2) in the work with the child uses methods which are age appropriate, and suitable in relation to the type of offence and the child's individual characteristics;
- 3) involves the child's legal representative in the social rehabilitation course;
- 4) takes into consideration the child's rights and ensures operation in accordance to the objectives of social rehabilitation.

In case there is a suspicion that the child is a victim of human trafficking, the child has the opportunity to receive support of the state funded program for persons who are victims of human trafficking. In this case the child is provided with support for six months (or during the criminal proceedings). The social service provider ensures:

- 1) safe shelter and accommodation of the client if necessary by cooperating with law enforcement institutions and other social services providers or by using other possibilities of accommodation which are allowed in accordance to the regulatory enactments;
- 2) development of client's rehabilitation plan by establishing the necessary amount of social services;
- 3) during the course of social services – psychosocial assistance, including consultations provided by a social worker, psychologist, lawyer, medical practitioner and other professionals in accordance to the needs of the client and in accordance to the rehabilitation plan;
- 4) support in relation to the criminal proceedings – psychosocial support (individual consultations provided by a lawyer, social worker and psychologist), interpreters services, support in drawing up of legal documents – during the course of social services and after it has ended, as well as when there is a need for the persons representation in court;
- 5) the opportunity to acquire or improve self-care and self-service skills and if necessary to receive basic necessities (for example, food, drugs, clothing, footwear or money to be able to purchased those things);
- 6) the involvement of clients in educational and training programs if that promotes the reintegration of the client in the society and labor market.

In accordance to Section 74, Paragraph 1 and 3 of the Protection of the Rights of the Child Law if in accordance with international or national law a child is a refugee or a person to whom has been granted alternative status, the child shall receive protection and assistance irrespective of whether the child is together with parents or other adults or alone. The refugee child and the child to whom has been granted alternative status shall be provided with the same care as any other child who has been left without parental care.

Taking into account the aforementioned, if the State Inspectorate for Protection of the Rights of the Child received information about the possible violations of the rights of the children who are refugees, including information about possible sexual abuse or exploitation, in Latvia, the inspectorate would immediately get involved to solve the situation. At the same time the children may turn to the inspectorate in order to report possible violations of their rights or call to the inspectorate's Helpline for Children and Adolescents (number 116111) in order to acquire psychological support and seek assistance in crisis.

The inspectorate carries out regular in-depth inspections of the observance of children's rights in the specialized boarding schools and residential institutions for children. The aim of these inspections is to assess the risks of possible abuse, including sexual abuse.

## **LIECHTENSTEIN**

### **Question 3**

As mentioned in answer 1a), no cases have been recorded in Liechtenstein so far. Therefore, there has not been a need for a specific programme.

## **LITHUANIA / LITUANIE**

### **Question 3**

Integration of foreigners who have been granted asylum into the local community remains one of the most sensitive elements of the Lithuanian asylum system. Refugees' psychological problems and insufficient knowledge of the community into which persons are integrated still constitute major obstacles to successful integration.

Lithuania creates the following conditions to foreigners who have been granted asylum: provides temporary accommodation, organises education and employment, ensures social and health protection, raises public awareness of foreigners who have been granted asylum in order to prevent their isolation and social xenophobia and to promote tolerance.

Support for the integration of foreigners who have been granted asylum is started to be provided at the Refugees Reception Centre (for up to 3 months). They are intensively taught the Lithuanian language and Lithuanian culture in order to be properly prepared to integrate in Lithuania's society and the labour market. Foreigners residing at the Refugees Reception Centre are paid monthly allowances for food and minor expenses. After the period of support for integration at the Refugees Reception Centre is over, support for integration is continued in the territory of a municipality (for up to 12 months). Currently there are two non-governmental organisations which have won a public procurement tender for the provision of support for integration to foreigners who have been granted asylum in the territory of a municipality: Caritas of Vilnius Archdiocese and the Lithuanian Red Cross Organisation. Non-governmental organisations provide mentoring services. Mentors help foreigners acquire basic necessities, rent a flat; they pay cash allowances, organise kindergarten services and assist with any other issues. During the period of state support for the integration in the territory of a municipality, a foreigner who has been granted asylum is paid a monthly cash allowance for basic necessities (housing rental, public utilities, food, transportation, etc.).

## **LUXEMBOURG**

### **Question 3**

The OLAI, "Office luxembourgeois de l'accueil et de l'Intégration", organizes the assistance of the victims, in close cooperation with the Ombudsman's office, the NGO "Maison de la porte ouverte", specialized in the work with children and adolescents with needs for psychological help, and the network of the state's children's homes, "Staatlech Kannerheemer" offering specialised institutions for minors needing psychological help.

## **MALTA / MALTE**

### **Question 3**

Whenever AWAS' social workers identify a victim of sexual abuse, Appogg are asked to intervene as the specialised agency in this field.

### **Question 3.a**

All unaccompanied minors are assigned a guardian who is a social worker by profession and therefore able to engage, assess and identify such matters. Re language, AWAS uses interpreters. Regarding traumas and other psychological issues, AWAS social workers refers to mainstream mental health service providers.

### **Question 3.b**

Social workers engage with victims throughout their placement in order to break the cycle of falling again into sexual exploitation, including by being given psychological support. In addition, the police are involved in such cases so that any perpetrators can be investigated. Minors are also placed in homes with curfews while staff members observe their behaviour and alert professionals of any concerning behaviour. Regarding redress, minors are offered legal representation and advice.

## **REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA**

### **Question 3.a**

Unknown data.

### **Question 3.b**

Unknown data.

### **Question 3.c**

Unknown data.

## **MONACO**

### **Question 3**

Les mesures prises pour faire face à la situation et prendre en charge les besoins spécifiques des enfants :

**Concernant les soins**, le Centre Hospitalier Princesse Grace a établi une procédure ayant pour finalité la prise en charge clinique, psychologique, thérapeutique et administrative, des victimes de viol ou d'agressions sexuelles en optimisant leur accueil psycho-médico-social.

Les maltraitements sexuels sont également une des problématiques prises en charge par le Centre médico-psychologique.

L'Union de psychiatrie et de psychologie médicale « La Roseraie », composée de psychiatres, psychologues et infirmières prend le relais lorsque certains patients demandent une prise en charge au-delà de ce que leur offre la psychiatrie « classique ».

Elle travaille en liaison permanente avec les services sociaux. De plus, les missions de l'équipe mobile reposent notamment sur la prise en compte du patient dans son contexte familial et environnemental.

La Principauté de Monaco dispose d'un Foyer de l'enfance, d'une capacité de 30 places, dont 6 places réservées à un accueil mère/enfant(s), placé sous la tutelle de la DASO et qui accueille les enfants migrants.

Sur un plan pratique, l'équipe socio-éducative qui exerce en milieu ouvert est joignable en journée. Un travailleur social effectue chaque jour de semaine une permanence pour répondre à l'urgence.

Le Foyer de l'enfance est accessible jour et nuit, 365 jours par an, par le biais d'une permanence téléphonique effectuée par l'un des deux responsables de l'établissement.

L'exercice socio-éducatif s'effectue dans toutes ces entités avec le souci du respect des enfants et de leurs droits. Toutes les décisions prises le sont à leur bénéfice. Ils sont placés au centre des situations traitées et reçus ou accompagnés par des professionnels formés à ce type d'intervention.

Le travail s'appuie sur les principes fondamentaux des métiers exercés et le respect de la confidentialité est de mise. Les travailleurs sociaux sont amenés à rédiger des rapports, notamment pour le Juge Tutélaire, mais ces écrits ne reflètent pas les confidences qui ont pu être faites lors d'un entretien, ils relatent des faits (excepté dans le cas très précis du signalement d'un danger pour l'enfant) et apportent l'avis technique du rédacteur.

**Concernant le placement et la tutelle**, les différents services de la DASO sont chargés de la prise en charge, du suivi et de la mise en place des mesures tendant à la réinsertion et à la réadaptation des enfants violentés. Dès que le Ministère Public est saisi d'un signalement faisant état d'un mineur dont la sécurité ou la santé est en danger, le juge tutélaire est saisi d'une requête en assistance éducative aux fins de prendre toute mesure de protection nécessaire.

Le Procureur général peut ordonner un placement dans un foyer d'accueil local de l'enfant ou de l'adolescent dont la sécurité, la santé, l'éducation ou la moralité sont compromises.

Cette décision d'urgence est régularisée dans les plus brefs délais par une requête saisissant le juge tutélaire. Les enfants sont accueillis dans une structure adéquate, le Foyer de l'Enfance, où peuvent intervenir les assistantes sociales, éducateurs spécialisés, psychologues et médecins nécessaires au suivi de l'enfant en danger. Une prise en charge médicale et/ou socio-éducative peut être mise en place par le Centre Medico-Psychologique (C.M.P.) et le Centre d'Accueil Thérapeutique à Temps Partiel (C.A.T.T.P.).

Les mesures qui ont été prises pour protéger les enfants contre de nouveaux faits d'exploitation et d'abus et pour aider les victimes à obtenir réparation :

Les enfants migrants ou demandeurs d'asile bénéficient, comme tout étranger en Principauté de Monaco, de tous les droits publics et privés non formellement réservés aux seuls nationaux (article 32 de la Constitution).

Ainsi, les enfants migrants ou demandeurs d'asile bénéficient de la loi monégasque qui protège les enfants.

En particulier, la **loi n°1.344 du 26 décembre 2007** relative au renforcement de la répression des crimes et délits contre l'enfant permet une protection accrue des enfants victimes de violences, d'exploitation ou d'abus. A cet égard, la répression des crimes et délits commis à l'encontre des enfants a été accrue notamment par de nouvelles incriminations. Font partie des crimes et délits plus durement réprimés l'exploitation sexuelle des enfants à des fins commerciales et prostitution enfantine, le proxénétisme, la possession et la diffusion de pornographie enfantine, la tentative d'attirance via Internet d'enfants mineurs à des fins sexuelles, etc. De plus, le délai de prescription de l'action publique a été porté à 20 ans à compter de la majorité de la victime concernant les crimes et délits sexuels commis sur un mineur.

Depuis l'adoption de cette loi relative au renforcement de la répression des crimes et délits contre l'enfant, le seuil pertinent de majorité sexuelle – appréhendé comme le seuil de vulnérabilité particulière de l'enfant – est établi à seize ans et ce au bénéfice de plusieurs incriminations : article 261 du Code pénal (attentat à la pudeur sans violence sur enfant de moins de seize ans), cinquième alinéa de l'article 262 du Code pénal (viol sur l'enfant de moins de seize ans) et deuxième alinéa de l'article 263 du Code pénal (attentat à la pudeur avec violence sur enfant de moins de seize ans).

La **loi n°1.382 du 20 juillet 2011** relative à la prévention et à la répression des violences particulières a été adoptée à l'effet de renforcer la protection des femmes, des enfants et des personnes handicapées. L'objet de ce texte est la prévention et la répression de violences nécessitant ou justifiant des modes de répression ou de réparation spécifiques ou bien des sanctions aggravées ou adaptées, à raison de la vulnérabilité particulière des personnes qui en sont les victimes ou des situations dans lesquelles lesdites violences sont perpétrées. Il en est notamment ainsi de toute forme de violence ou de menaces de violence, physique, psychologique, sexuelle ou économique.

Afin de garantir l'effectivité de cette protection renforcée - notamment à l'adresse des mineurs - des mesures particulières de prévention, protection et répression ont été introduites dans l'arsenal législatif monégasque, telles que les « crimes d'honneur », les mutilations sexuelles féminines, ou les mariages forcés.

## **MONTENEGRO**

### **Question 3.a**

Children always have access to the asylum procedure, regardless of their age. Basic and guiding principle of the protection of children, even in the asylum procedure, is the principle of "the best interests of the child". Children, who are seeking asylum, particularly if they are not accompanied by adults, are entitled to special care and protection. Children belong to the vulnerable category of persons and/or persons with special needs, and therefore, special procedures and mechanisms of protection should be used to treat them accordingly. Due to their vulnerability and special needs, requests for asylum of minors have priority in solving and decisions are made within 30 days from the date of application. During the procedure, it is taken into account the accommodation, mental and physical condition and the best



interests of the minor and measures to locate his/her family. In the asylum procedure, the special attention is paid to preserve the unity of the family. Interviews with children in the process of determining refugee status are performed by the officers of the Directorate of Asylum who have undergone special training programs to talk with this category of people, appropriate to their age and possessed adequate knowledge of the psychological, emotional and physical development and behaviour of children. Communication with a child is executed separately, through an interpreter and in the presence of a guardian. The opinion of a child is paid due attention in accordance with the age and maturity. Although the same definition of a refugee applies to all individuals regardless of their age, in the examination of the facts stated in the application of an unaccompanied minor, special attention is paid to the circumstances, such as the child's stage of development, possibly limited knowledge of conditions in the country of origin and their significance for the legal concept of refugee status, as well as their special vulnerability. Children can show their fears in ways that are different from adults. Therefore, an examination of their applications are paid special attention, applying procedural safeguards measures created for determining the best interests of the child. Finally, the decision is based on an examination of a unique set of factors in each case, as they were presented by each child, including his/her personal, family and cultural background.

### **Question 3.b.c**

In the case of identification of a minor as a victim of sexual exploitation and sexual abuse, the Centre for Asylum Seekers would contact other relevant institutions that are obliged to provide support and protection to these persons under urgent procedure. The Centre for Asylum Seekers would, if necessary, contact primarily the relevant competent service of the Ministry of Internal Affairs and the Centre for Social Work, which is under the competence of the Ministry of Labour and Social Welfare. This group of people would be provided separate accommodation, adequate medical care and psychosocial assistance in the Centre for Asylum Seekers. The overall procedure and work with these individuals would be performed in the presence of a guardian, in a language that is understandable to the child with the provision of an interpreter, in order to exclude the language barrier and with a team, which has expertise in dealing with these persons, such as psychologists, social workers and medical staff.

As stated, the Centre for Asylum Seekers, would contact other relevant institutions that are obliged to provide support and protection to these people under urgent procedure. The Centre for Asylum Seekers, if necessary, would contact primarily the relevant persons of the Ministry of Internal Affairs, in order to process legally such cases.

## **NETHERLANDS / PAYS-BAS**

### **Question 3**

While children await a decision in their asylum procedure, the responsibility for their safety lies with the organizations that together form the chain of organizations of the immigration procedure, e.g. IND, COA, Nidos, etc. In the foregoing we have described the measures that have been taken by these organizations to ensure the children's safety.

Once a positive decision is taken in the asylum procedure and the children are given a residence permit, the responsibility for the children's safety lies with the municipality in which the child is living. In the Netherlands, municipalities coordinate the care needed for all children within it's borders. Municipalities are responsible for sufficient offer of shelter and care for all minors and are responsible for guiding them to the appropriate care.

Municipalities are also responsible for the Safe Home Centers, aimed at supporting victims of domestic violence and child abuse. Municipalities are also responsible for the legal child protection measures, such as guardianship or supervision. These facilities and measures do not specifically apply to migrant children, but to all children in need.

## **NETHERLANDS / PAYS-BAS**

### **Replies sent by the Police Union - Netherlands**

#### **Question 3**

Many organizations are working on this theme.

The Netherlands has a special rapporteur on this issue.

## **POLAND / POLOGNE**

#### **Question 3.a**

With regard to a coordinated child protection approach, it should be emphasized that the legal procedure is the same for Polish and migrant children. There is no difference because of citizenship or home country of the victim. However, circumstances such as age, language, cultural differences or multiple traumas are taken into consideration. The Police, courts, prosecutor's offices and other institutions apply a special procedure in case the child is a victim. First of all, children are interrogated in "friendly rooms". Furthermore, the interrogating officer must be the same sex as the child. A psychologist should also be present during the interrogation.

#### **Question 3.b**

To protect the child from further exploitation/abuse and to assist the victim in seeking redress, Polish institutions take the same actions and use the same measures as if the child was a Polish citizen.

#### **Question 3.c**

Because of the marginal scale of sexual exploitation and sexual abuse of children as a result of the refugee crisis, all specific actions and programs should be still implemented and the situation must be monitored and analyzed.

## **PORTUGAL**

#### **Question 3**

No cases of sexual abuse or exploitation of refugee children are identified. Nevertheless legal mechanisms and practices are established for this purpose.

It should be stressed that within the articulation with the municipalities (local level) and the reception institutions, all the dimensions concerning the appropriate reception of those children are taking into account.

Additionally it is important to highlight that Portugal applies the same principles to all the children, irrespectively of their legal status, in all the dimensions: social protection, access to education and healthcare as already mentioned on the “**Prevention**” answer.

### **Question 3.a**

- Portugal predicted on Asylum Law (article 17-A) a mechanism of identification of special needs and vulnerability within the framework of international protection. SEF, national entity responsible for that matter, gives special attention to all the cases referred to in article 17-A, that is, applicants whose ability to exercise rights and fulfill obligations is limited because of personal circumstances, in particular because of their age, gender, sexual identity, sexual orientation, disability or serious illness, mental disorder, because they have been victims of torture, violation or other serious forms of psychological, physical or sexual violence.

Portuguese authorities signal the situation and report it as a matter of Urgent Priority.

At this level other steps are taken, i.e., the Portuguese Council for Refugees is currently developing a transnational project focused on creating mechanisms to satisfy these special needs and carry out an effective routing of protection seekers particularly vulnerable (project "Time for needs").

At the same time, in case children need medical care, they are taken by the GNR to the nearest Hospital for proper assistance.

- This new asylum law also guarantees the free translation of documents for asylum seekers with insufficient income the right to make statements in the asylum seekers mother tongue, in conditions that assure the due confidentiality.
- Minors and unaccompanied minors are also legally considered as asylum applicants with specific needs.
- If justified, the situation would also be reported within the national network to support and protect the victims of trafficking, through the national referral system. In fact children benefit from specific national measures as soon they are identified as possible victims such as the guarantee of legal representation and access to education
- Concerning good practices, NGOs in Portugal developed guiding tools for professionals and citizens with the GNR collaboration. These tools, as technical resources, are a surplus for the GNR professionals and other staff who deal/may deal with these children. Once again, the GNR contributed to a booklet for professionals and staff working with refugee children.
- The Police of Public Security (PSP)<sup>6</sup> has not foreseen any activity specifically designed for children from refugee groups who seek asylum in Portugal. However, in order to promote inclusion and contribute to local integration and interaction with these minority groups, the PSP celebrated on last July 1<sup>st</sup> a protocol with the ACM creating the program

---

<sup>6</sup> <http://www.psp.pt/Pages/defaultPSP.aspx>

"TOGETHER FOR ALL", aiming to prevent conflict in possibly vulnerable multicultural communities and to ensure safety of all citizens regardless of nationality or cultural belonging.

- In terms of the cooperation between the ACM and other relevant entities, we would like to highlight the Protocol between the ACM and the Portuguese Ombudsman. Being the National Human Rights Institution, with A status according with the Paris principles, the Ombudsman, has among other priorities, the work regarding the protection of minors.

In 2016, the cooperation continued to be as fruitful as in previous years, with the common goal of the defense of the rights of migrant citizens. As a concrete outcome, during this year, there will be the public launch of a brochure about migrants' rights in different languages: Portuguese, French, English, Romanian, Russian, Ukrainian and Mandarin

### **Question 3.b**

The situations that occurred before entering the national territory should immediately be appointed to the Family and Minors Court with a view to assessing the situation and taking measures to protect children, including the appointment of guardians. In abusive situations that occur after the entry into national territory, the facts are also communicated to the Court to take the necessary measures. In both cases they can be appointed public defenders to represent the interests of children, in particular claims for compensation for damages caused by the abuse they suffered.

Unaccompanied children which are placed in the CPR – Home for Non-accompanied children (<http://refugiados.net/1cpr/www/cacr.php>) that provides for proper housing, food, assistance and integration activities and is run by a specialized team of professionals

### **Question 3.c**

No useful information in the absence of concrete situations.

## **ROMANIA / ROUMANIE**

### **Question 3**

There is a specific procedure based on a Protocol on the Sexual and Gender Based Violence - SGBV between the Romanian Immigration Inspectorate, the UNHCR and the NGOs with duties in the refugee area.

## **RUSSIAN FEDERATION / FEDERATION DE RUSSIE**

### **Question 3**

In Russia, the provisions of the Convention (chapter IY) are implemented with sufficient completeness in the RF Law of 19.02.1993 № 4528-1 "On Refugees". So, Art.3, Sec. 5, provides that the recognition of refugee status of a person under the age of 18 and of a person who arrived in the Russian Federation unaccompanied by parents or guardians, or the definition of the above person's particular legal status on the territory of the Russian Federation shall be based on the interests of this person after receiving information about his/her parents or guardian.

In accordance with par. 2 of Art. 4 the information about those who, being under the age of 18, arrived as members of the family, is included in one of the parents' application for refugee status, and in case of parents' absence such information is included in the application form of one of the adult family members who voluntarily assumes responsibility for the minor's behavior and responsibility for his/her upbringing and maintenance. A minor who arrives in the territory of the Russian Federation without parents or other legal representatives, a certificate of his/her refugee status recognition is issued.

The protection of children from violence is governed by the Criminal Code, the Law on the protection of refugees (1997) or internally displaced persons (1995).

According to this law, for example, every displaced person has the right to choose a place of residence in the Russian Federation. The person may agree to the proposal by the territorial body of the migration service. In addition, there is the opportunity to live with relatives or close friends, if they agree, and the actions themselves do not contradict the current legislation.

In addition, such persons are referred for placement in a temporary center if they cannot or do not want to choose where to live. The state shall provide all necessary support not only for baggage allowance, but in general when traveling to the person's chosen destination.

Refugees are provided with the necessary medical aid and medicines.

They are entitled to receive employment assistance or to be offered vocational training, assistance in placement of their children in state or municipal pre-school and educational institutions, vocational schools, as well as their transfer into educational institutions of secondary and higher vocational education

#### **Benefits for persons who have refugee status.**

Firstly, if necessary, the State provides an interpreter who accompanies a person in the migration service bodies and prepare the documentation. Secondly, the refugee who has received a residence permit in the camp, should not worry about his/her luggage and travel. With the assistance of regional administration, this procedure is performed free of charge. Normally, the bus goes round destinations. This status gives the right to receive pensions and social payments to certain categories of citizens.

In addition, the Russian government encourages those who seek to find a job and support their families on their own. Public authorities in the face of labor exchanges conduct vocational training for refugees on equal basis as it is done for Russian citizens.

Displaced people can rely on free meals in temporary accommodation and medical care centers while getting compulsory insurance certificate.

The Ministry of Education of the Russian Federation, as a co-executor of the Federal target program "Children of refugees and internally displaced families", carries a large amount of work on social protection of migrant children.

Families in extreme need are provided with targeted financial assistance. In educational institutions of eight regions, enrolling children who have arrived from zones of war or ethnic conflicts without parents, the centers of psychological, pedagogical, medical and social assistance to children are equipped with therapeutic and physical training equipment, sports uniform, copying and computer equipment for full-scale system rehabilitation.

To train children with insufficient knowledge of the Russian language, sets of language training materials (the textbook "Learning the Russian language" and guidelines to it) were published and distributed in 10 RF regions.

The rehabilitation centers of Moscow, Kaspiysk, Dagestan, Moscow and Tver regions were used for testing and implementation of guidelines for the rehabilitation of child victims of the international (military) conflicts.

The problems of adaptation of migrant children to the Russian secondary education are considered, as well. The Ministry of Education issued a series of regulations aimed at protecting these vulnerable children:

First, it is possible to mention the Order number 409 from 24.10.94 "On the federal migration program", which :

1. Stipulates the inclusion in the agreement between the Russian Ministry of Education and the RF entities of the provisions on the protection of the rights of migrant children, orphaned children from migrant families and the creation of conditions to meet their educational needs;
2. Regulates the measures to place children orphans from refugee and IDP families at children's homes;
3. Stipulates the development of adaptation and training programs;

Second, it is possible to refer to Model Regulations on educational institution for orphans and children left without parental care (approved by the RF Government Decree of 01.07.95 number 676) and Model Regulations on preschool educational institution (approved by the RF Government Decree of 01.07.95 number 677).

The above documents provide for the priority admission of children from families of refugees and internally displaced persons to these educational institutions.

The Ministry of Education sent a letter to the regional departments of education (05/07/99) - "Recommendations on the organization of education for children from families of refugees and internally displaced persons at educational institutions of the Russian Federation." It declares the mandatory training at educational institutions of all citizens who live on the territory and have the right to receive education of appropriate level and defines the mechanism of the above provision implementation. Recommendations provide support for work with children with insufficient knowledge of the Russian language, for social and psychological adaptation of students to a new culture, traditions and customs, values, new social relationship, as well as lay down guidance for the final certification of the 9th and 11th grades schoolchildren. In particular, the mandatory final exam on the Russian language in the 9th grade for the above categories of children does not include grammar tasks and includes tasks that are similar for pupils of schools with native non-Russian language of instruction. In

the 11th grade the final examination of such children in the Russian language includes composition. For migrant children the topics assigned for schools with a native non-Russian language of instruction can be used. Migrant children may obtain a certificate of basic general education in the form of external studies.

## **SAN MARINO / SAINT-MARIN**

### **Question 3**

Oui, une approche coordonnée a été mise en place, pour tous les besoins des migrants. Les ONG ont été sollicitées et le Service des Mineurs, en collaboration avec le Ministère de l'Education, s'est occupé de l'intégration scolaire et autre assistance nécessaire.

Un cours d'italien spécifique pour les migrants a été mis en place. De plus, un médiateur culturel a été mis à disposition. Les enfants ont fréquenté une colonie de vacances cet été, afin que cela puisse favoriser leur socialisation avant le début de l'école. Les assistants du Service des Mineurs n'ont pas relevé d'anomalies qui pourraient faire penser à des traumatismes dus à des abus sexuels.

## **SERBIA / SERBIE**

### **Question 3.a**

The truth was that (only) basic needs and safety of children, after crossing the (Serbian) border was put in focus (State). Even the NGO "Atina", who said to identify "few cases" of sexual abuse, did not described "specific measures taken", when multiple trauma (of sexual abuse at home and/or after smuggled over the boarder) were reported.

### **Question 3.b**

The basic security measure among accompanied children who were "asylum seekers" was to separate boys and girls in different facilities.

### **Question 3.c**

Unfortunately, we could not highlight any form of practice as particularly useful. But, we could be critical toward it, because on both side (State and/or NGO), activities were run only to occupy children, rather than to "heal the wounds".

## **SLOVENIA / SLOVENIE**

### **Question 3**

In the Asylum Centre the project PATS (recognition, help and protection of victims of THB, sexual violence and gender violence) is conducted in connection with admittance of applicants for international protection. The purpose of the project PATS is to disseminate information on THB and to facilitate identification of vulnerable groups, in need of specialized treatment. Special attention is given to informing vulnerable groups, especially unaccompanied minors and women.

As for social workers in general, the protocols of Ministry of labour, family and social affairs provide that children are treated with highest sensitivity.

### **Question 3.a**

Unaccompanied minors, older than 15 years who are victims of sexual abuse are accommodated in an Asylum center for a short period of time (two weeks), in the department for the unaccompanied minors. Their legal representative and the competent center for social work must be immediately informed. Both Center and legal representative must be included in the help planning. After two weeks, unaccompanied minors are transferred to high school dormitory, where they have 24-hour care. Unaccompanied minors under the age of 15, are immediately housed in the dormitory, without the above said transitional period in the Asylum center.

It is essential to provide comprehensive assistance based on the principle of the best interests of the child, taking into account child's personal circumstances. The Center for Social Work together with other relevant institutions and in cooperation with the child's legal representatives proposes an adequate accommodation, which may be temporary or permanent.

Upon detection of sexual abuse, in addition to the statutory forms of possible accommodation, the following additional forms of accommodation are possible: a crisis center for children and young people (a temporary form of accommodation), exceptionally educational institutions, group homes, high school dormitories, foster families.

### **Question 3.b**

All victims of sexual abuse are ensured safe placement and social, legal, psychological and medical assistance. Specific programs, activities and actions aimed at empowering vulnerable groups are provided. Activities provided by NGO's, aimed at empowering vulnerable groups, are also available, both inside as well as outside of Asylum center.

Police treats children as the most vulnerable group as well. Its procedures are aimed at reunification of family members / relatives / dependents as well as at their care or protection.

## **SLOVAK REPUBLIC / REPUBLIQUE DE SLOVAQUIE**

### **Question 3**

Regarding migrant and asylum-seeking child victims in the context of refugee crisis, no distinctive proceedings have been implemented (in the light of the situation in the Slovak Republic described above).

### **Question3.a**

The general procedure is established as follows: Minor foreigners accompanied by a legal guardian are generally placed in the territory of the Slovak Republic in the Police Detention Centre for Aliens Sečovce established by the Police Force and adapted for placement of families with children. Accompanied minors are detained in accordance with Act No. 404/2011 Coll. on Residence of Aliens, as amended, by which Slovakia transposed the Directive 2008/115/EC of the European Parliament and of the Council. A family with children can be detained and placed in the facility for a period of no more than six months; such period cannot be extended in case of a family with children. The facility in which a family with children is placed meets all sanitary conditions and is equipped so as to prevent danger to life



or injury to health. All members of a family are always placed in the facility together unless there are serious reasons for their separation.

Care and support for persons who have applied for asylum in the Slovak Republic is ensured by the Migration Office of the Ministry of Interior of the Slovak Republic, in the scope of Act No. 480/2002 on Asylum and on amendments and supplements to certain acts. Minor asylum seekers who come accompanied by parents or close relatives, are after quarantine acts in detention asylum facility in Humenné transferred to residential asylum facility together with the vulnerable groups of asylum seekers, such as single women, single women with children, seniors and persons with physical or mental disabilities. Currently, these persons are placed in the asylum facility in Opatovská Nová Ves. There are protected areas and a camera system within the asylum facility, to ensure protection of these groups of asylum seekers.

Under the current Slovak legislation, a minor without a legal guardian cannot be detained and placed in a Police Detention Centre for Aliens. Unaccompanied minors are provided with immediate care by a competent authority of social and legal protection of children and social guardianship which protects the rights and legitimate interests of unaccompanied minors immediately after a notice by the Police Force about finding an unaccompanied minor in Slovakia.

Measures of socio-legal protection and social guardianship for unaccompanied minors present at the territory of the Slovak Republic are regulated by the Act No. 305/2005 Coll. on Social and Legal Protection of Children and Social Guardianship and on amendments and supplements to certain acts. All measures taken in cases of unaccompanied minors are carried out with respect to culture, language, religion and country of origin specificities. Authorities of socio-legal protection of children and social guardianship also proceed in line with the internal norm Realization of Measures of Social and Legal Protection of Children and Social Guardianship in Cases of Unaccompanied Minors.

A representative of the competent authority of social and legal protection of children and social guardianship participates in oral investigation into a misdemeanour at the department of border control. Such representative also gets acquainted with a list of documents and seized things and sees that the rights of the unaccompanied minor are secured during providing an explanation or during his/her presence at the Police Force department (interpreting, advice, meal, hygiene, rest time, etc.). Subsequently, the competent authority of social and legal protection of children and social guardianship files a motion for preliminary ruling with a court, upon which the unaccompanied minor is transferred to a facility for enforcement of court decisions which is the Children's Home for Unaccompanied Minors Medzilaborce. The motion for preliminary ruling shall be decided by the court within 24 hours after its delivery. Along with such motion, the authority of social and legal protection of children and social guardianship files a motion to appoint a guardian. The said measures secure the immediate care of the unaccompanied minor and the protection of its rights and legitimate interests.

Social work, expert diagnostics, assistance, education, specialised procedures targeting disorders of psychological or social development of the child, psychological counselling and special pedagogical assistance are provided in the Children's Home for Unaccompanied Minors Medzilaborce. Unaccompanied minors also have access to legal aid.

With respect to the general principle of the best interests of the child, Act No. 131/2015 Coll., amending and supplementing Act No. 480/2002 on Asylum and on amendments and supplements to certain acts altered the process of providing care for unaccompanied minors (minor asylum seekers and minor children with subsidiary protection) who now stay in the facilities of social and legal protection and social guardianship also during the asylum procedure. If an unaccompanied minor comes of age during the asylum procedure he/she will be considered a minor. When an unaccompanied minor comes of age he/she may, after institutional care is terminated, apply for staying in a children's home until he/she reaches the age of 25.

Special measures are applied in cases of (presumed) trafficking in human beings. When investigating trafficking in human beings crimes under Article 179 of the Criminal Code Article 179 of the Act no. 300/2005 Coll., the Criminal Code, as amended, police authorities proceed in line with the best practice manual for investigators prepared and updated by the INTERPOL working group for trafficking in human beings. The manual is accessible to police investigators on the intranet site of the Ministry of Interior of the Slovak Republic. Part of the manual focuses on child victims and witnesses, covering the issues of identification of child victims of trafficking in human beings, methods of interrogation of children in case they agree to testify, and measures securing their safety.

Procedure of all parties involved in provision of assistance to victims of trafficking in human beings is regulated by a methodological tool. The tool gives special attention to procedures in cases when victims of trafficking in human beings are foreigners and minors.

If the victim of trafficking in human beings is a minor, the Centre of Labour, Social Affairs and Family in collaboration with the relevant authority of socio-legal protection of children and social guardianship and a partner organization of the Ministry of Interior of the Slovak Republic proceed to include the minor in a special program of assistance and protection of such victims. The particular authority of socio-legal protection of children and social guardianship acts as a coordinator in all other measures needed to be taken to ensure that the needs of child victims of trafficking in human beings are catered.

General principles applied in proceedings with children, regardless their status, are the principle of the child's interests, including hearing the views of the child and the principle of non-discrimination.

In order to protect minor victims and witnesses of crimes against their secondary victimisation, Section 135 of the Code of Criminal Procedure sets forth a special procedure of prosecuting authorities if a person younger than 18 years (the original age limit of 15 years changed with effect from August 1, 2013) is questioned as a witness in criminal proceedings about matters the recollection of which could, given his/her age, adversely affect his/her mental and moral development. Interrogation of such persons should be carried out very considerately and in terms of its content eliminating the need for its repetition in further proceedings. Such person shall be questioned again in further proceedings only when necessary and in the pre-trial proceedings only with the prosecutor's consent.

### **Question 3.b**

Referring to information stated above, legislation amendments and policies adopted and practical measures being taken in cases of particular children aim also to prevent further exploitation/abuse and/or the risk of repeated trafficking in human beings.

Trainings of professionals, be it those conducted individually by ministries or multidisciplinary trainings on institutional violence and CAN/CSA identification, can also be understood as contributing to protection of children from repeated victimisation.

### **Question 3.c**

In the scope of targeting violence against children in general, involvement of all stakeholders via regular meetings and exchange of information are the cornerstone of a coordinated approach. Within the implementation of the National Strategy for the Protection of Children against Violence a model of coordination meetings on the local level was launched in 2015.

## **SPAIN / ESPAGNE**

### **Question 3.a**

The Ministry of Health, Social Services and Equality coordinates the programmes developed by child protection services. The framework protocol on unaccompanied foreign minors stipulates that the minor has to be informed about her/his rights by the law enforcement officers or the staff of the protection services that assume the guardianship in a manner adapted to the child's age and maturity and in a language that he/she may understand. Once the minor is located, she/he must be declared to be in a situation of helplessness to access the protection system and services. The guardianship exercised by NGOs financed by the protection services implies the responsibility of protecting and promoting the child's best interests. The minor is guaranteed access to education and proper training, legal assistance or interpretation services when necessary, social insertion and adequate care.

Moreover, a new Instruction about the fight against the trafficking in human beings has recently been adopted by the State Security Forces. It has created the figure of the "social partner" at a national and regional level, who acts as focal point to promote cooperation and the exchange of information.

### **Question 3.b**

See answer above

## **SPAIN / ESPAGNE**

### **Replies sent by the SICAR.CAT programme – Spain**

### **Question 3**

Once an unaccompanied minor is detected and his/her age has been determined, he/she will be put under the legal guardianship of the competent public authority. From then, the protection system and services are responsible for their accommodation and other needs. As mentioned above, the Framework Protocol on unaccompanied minors does not provide for any specific actions to cover the particular needs of asylum-seekers, victims of sexual exploitation and victims of THB for that purpose. To the contrary, these children are not granted any specific attention and they are treated like any other unaccompanied minor

without taking into account the particular needs in terms of psychological treatment, legal assistance, etc. Once again, we would like to highlight the low number of detection of victims of sexual exploitation amongst migrant and refugee children and the lack of a specialised training for professionals in the child protection services.

Our organisation is aware that this is not a particular problem of the Catalan General Directorate for Childhood and Adolescence (DGAIA) but is similar to the rest of regional protection services. We also would like to remind the Committee that our organisation is closely working with DGAIA in the elaboration of specific protocols on victims of human trafficking for sexual exploitation and asylum-seekers in Catalonia. In addition, some specific facilities for these minors are currently being studied by DGAIA. Even though these protocols have not yet been implemented, we expect this collaboration to improve the situation for child victims of sexual exploitation and THB for that purpose.

## **SWEDEN / SUEDE**

### **Question 3**

- *Talks with trade unions about security situation in homes for care or residence:* In February 2016, Minister for Children, the Elderly and Gender Equality met the relevant trade unions. The purpose of the meeting was to talk about the security situation in homes for care or residence and supported accommodation.
- *Call function supports municipalities in their work with the refugee situation:* In October 2015, the Government tasked the National Board of Health and Welfare with setting up a call function for the purpose of responding to questions from and providing support for the municipal social services in connection with the current refugee situation. The call function will be based on relevant legislation and available knowledge within the Board's areas of responsibility.
- *The National Board of Health and Welfare coordinates information on foster homes for children:* In October 2015, the Government tasked the National Board of Health and Welfare with initiating and nationally coordinating initiatives to raise awareness of foster homes, emergency foster homes and legal representatives for unaccompanied minors and specially appointed custodians. The idea is to highlight the need for accommodation and increase knowledge about what the assignment involves in order to secure access to foster homes.
- In this period the Government has implemented an Action Plan to protect all children from human trafficking, exploitation and sexual abuse for the period 2014-2015 with measures in various policy areas. The action plan has contributed to a number of measures. For example, the National Board of Health and Welfare has revised and spread guidance aimed at social services, staff of homes for care or residence and guardians of unaccompanied minors. *The government adopted in June 2016 a new action plan for combatting human trafficking, exploitation and sexual abuse of all children for the period 2016–2018.* This new action plan contains even measures relevant in the context of this questionnaire:
- appointing a Swedish ambassador for international cooperation against human trafficking.

- funds to the Children's Ombudsman to listen to migrant children who have returned after having absconded, to understand more about the circumstances surrounding their disappearance.
- the Stockholm County Administrative Board has been commissioned to carry out an in-depth study of the groups of children judged to be particularly vulnerable, for example unaccompanied child asylum seekers, unaccompanied child migrants who are not applying for asylum and children whose parents or guardians are victims of human trafficking.
- the Government has commissioned the National Board of Health and Welfare to produce an information brochure for social services about investigating children's need for support and protection in transnational cases where children are victims of human trafficking and/or sexual abuse. The information brochure is to be spread to the profession.
- the Government has granted the Children's Welfare Foundation Sweden funding for a development project on the principle that all children who have been the victims of sexual abuse and/or physical violence have the right to an assessment and the right to support and rehabilitation according to need. The information to children about their right to support and rehabilitation is also translated into different languages, including Dari and Arabic, in order to make the information accessible for newly arrived children.

## SWITZERLAND / SUISSE

### Question 3

Les mineurs non accompagnés font l'objet d'une **protection spécifique** en termes d'hébergement, d'encadrement et de représentation légale au cours de la procédure d'asile. Ainsi, dès que des actes d'instruction importants pour la procédure d'asile sont accomplis, le canton auquel ils ont été attribués pour la suite de la procédure d'asile doit immédiatement nommer une personne de confiance pour sauvegarder les intérêts du mineur pendant la procédure d'asile, s'il ne nomme pas un tuteur ou un curateur à cette fin. Il s'agit d'une obligation inscrite dans la loi suisse sur l'asile. Le mineur non accompagné sera ainsi épaulé pendant toute la procédure d'asile d'une personne qui, outre le fait de veiller à la sauvegarde de ses intérêts juridiques, sera susceptible de contacter les autorités compétentes, notamment en matière de protection de l'enfance ou en matière pénale, en cas de soupçon ou d'indications d'abus ou d'exploitation sexuels. La Conférence des directrices et directeurs cantonaux des affaires sociales (CDAS) a en outre adopté le 20 mai 2016 des recommandations relatives aux enfants et aux jeunes mineurs non accompagnés dans le domaine de l'asile. Ces recommandations, qui s'adressent aux cantons, contiennent un chapitre consacré aux mineurs non accompagnés comme (potentielles) victimes de la traite d'êtres humains et d'autres formes d'exploitation et préconisent notamment la sensibilisation de ce groupe de personnes vulnérables aux risques et la mise en oeuvre de mesures et de structures permettant de prévenir et d'empêcher la traite humaine et d'autres formes d'exploitation.

## **“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” / «L’EX-REPUBLIQUE YUGOSLAVE DE MACEDOINE»**

### **Question 3**

Coordinated approach by all state institutions that have their responsibilities, in cooperation with international organizations and civil society groups, is characteristic for the management of migration in general, including the segment on the protection of children/foreigners.

Given that the government crisis decision is still in force, currently coordination of the activities is conducted pursuant to the Crisis Management Law, i.e., within the system for crisis management.

**Coordination of activities for the treatment of presumed victims is regulated in accordance with the foregoing procedures and established referral mechanism.**

In order to respond to the specific needs of children, through coordinated activities of the institutions preparation was made of SOP for dealing with victims of human trafficking (in 2010) and SOP for unaccompanied children/foreigners (in 2015).

In the process of protection and reintegration, special measures are undertaken; they are based on the age and needs of the child/victim taking into account the specific physical, psychological, and social consequences suffered by the child/victim of human trafficking, as a result of abuse and exploitation. Hence, the following is undertaken:

- Referral and placement in a shelter, needs assessment, and intervention in crisis;
- Providing an expert team to conduct activities in day and night shifts, as well as accompanying the victims to the required places; providing food during their stay, hygiene kits, clothing and footwear;
- Inclusion in the program of psycho-social support (various workshops, training for computer work, basic language courses in English, etc.);
- Organizing recreational activities, depending on affinities such as: drawing on glass, drawing on canvas, art technique using napkins, handmade jewellery, porcelain painting, knitting, sewing, origami techniques;
- Organizing basic medical checkups and specialized gynaecological examinations, laboratory tests, testing for HIV, hepatitis A, B, and C;
- Legal counselling and offering information on the country judicial system and representation before the courts by a lawyer in previously initiated court proceedings;
- Preparation of Individual long-term plan for inclusion in the educational process upon return to the places of residence;
- Providing psychological support to victims, including different types of treatments and sessions, group therapy and individual psychological counselling once a week, as well as urgent and more intensive assistance as needs such as the following would dictate:

- Overcoming stress and trauma, establishing positive habits, improving reading skills, positive thinking, attaining basic knowledge on adolescent development issues, emotional ties and relationships with peers, the hazards that sexually transmittable diseases and unwanted pregnancy bring.

### **Question 3.a**

When acting upon reports of sexual exploitation or sexual abuse, police officers follow the Law on Children's Justice and the Law on Criminal Procedure. The Law on Children's Justice regulates the treatment of children in risk and children perpetrators of criminal offences as prescribed by law and defines the terms under which measures of assistance, care and protection are to be undertaken, while also stipulating the conditions under which correctional, alternative, and measures of punishment are to be taken against children and young adults, as well as determining the status, role and competences of all bodies taking part in the treatment of children and the execution of correctional and alternative measures and punishments. Furthermore, the Law regulates measures taken to protect children who have been victims of criminal offences as prescribed by law and children who have been witnesses of such offences, while also stipulating measures to be taken to prevent child offending.

Ensuring the aforementioned rights of victims of HT is regulated in the SOP on Treating Victims of HT and the SOP on Unaccompanied Children - Foreign Nationals.

In keeping with the SOP on Unaccompanied Children - Foreign Nationals, while conducting preliminary data gathering, as well as formal interviews with unaccompanied children - foreign nationals, interpretation is provided to and from a language such children understand or are fluent in, whereas should they be capable of speaking only in their mother tongue, interpretation is provided to and from that particular language.

In accordance with the Law on Family and the SOP on Treating Victims of Human Trafficking, Social Work Centres (SWCs) are obliged to, without exception, appoint temporary guardians for children-victims of human trafficking or unaccompanied children. In cooperation with the Social Work Institute, the Ministry of Labour and Social Policy has specifically trained employees across all SWCs in the Republic of Macedonia to be capable of assuming the role of guardians to such children. Aside from their designated guardians, professional teams from relating SWCs composed of a psychologist, a pedagogue and a social worker each are involved in determining the children's best interests, whereas, apart from all of the aforementioned professionals, the children themselves are also included in the process of drafting their assistance and support plans.

Guardians are assigned immediately after receiving a report (either verbal, written or by telephone) from the Ministry of the Interior that a minor/child- foreign national had been identified as being unaccompanied by parents, adult relatives or other adults.

The choice of the manner and form of placing into care an unaccompanied child-foreign national lies exclusively with the designated Guardian/Professional Team, to be done in keeping with legal regulations as stipulated in the Law on Social Protection and based on the available capacities and forms of placing children into care that the Ministry of Labour and Social Policy disposes of.

In line with the relating SOP, children-victims of human trafficking are temporarily accommodated at the Centre for Victims of Human Trafficking.

### **Question 3.b.c**

The on-field coordination between the in-line services (such as the Ministry of the Interior, the Ministry of Labour and Social Policy, the Ministry of Health, the Red Cross, international organizations and civil society organizations specializing in working with migrants, children, etc.) functioned at a very high level. Problems in communicating with migrants were overcome by the IOM and UNHCR employing interpreters, whereas the communication and coordination between the relevant services themselves functioned without any problem whatsoever and in keeping with agreed procedures. What seemed to be the biggest issue when it came to identifying potential victims was the lack of willingness for cooperation among migrants themselves, possibly due to them being fearful that the possibility of coming forward as victims would result in a delay to their voyage to their desired end destinations across Western Europe.

As regards the dangers of sexual abuse on the territory of the Republic of Macedonia, we feel that the possibilities of it taking place were reduced to the minimum, all owing to the fact that the entire process of transiting across the Republic of Macedonia (making an entry into the Republic of Macedonia, reception and registration, transiting, and exiting the country to enter the Republic of Serbia) in most cases only took several hours and cases in which individuals stayed in the country for a period longer than one day due to health issues or for reasons of waiting on the rest of the group they were travelling with were extremely rare. Over the course of their entire stay in the provisional transit centres, the presence of a great number of police officers, employees of other in-line services and representatives of international organizations was ensured on a 24-hour basis and, hence, taking into consideration the size of the aforementioned centres, the possibility of attempts for sexual abuse going unnoticed in these centres was practically non-existent.

## **TURKEY / TURQUIE**

### **Question 3**

The Draft Law on Victim Rights – the preliminary works of which have been conducted by the Victim Rights Department of the Ministry of Justice – aims at the establishment of coordination committees under the presidency of the chief public prosecutors or deputy chief public prosecutors to be designated by them in those places where a justice commission is available and with the participation of the representatives from the public and non-governmental organizations offering services for children for the purposes of making proposals for the settlement of those problems confronted in the provision of support and assistance services to the victims by the public institutions and organizations and the non-governmental organizations, helping the victims solve the economic and psychosocial problems they have faced, and ensuring the coordination between the public and non-governmental institutions providing support and assistance services to the victims.

While communicating with those children who have been driven to crime, who have stepped in the judicial system either as a victim or a witness, it is important to proceed by bearing their ages, development and needs in mind in order to prevent them from becoming victims for a second time. To this end, the "Approach to Victims Guide" has been prepared by the



Victim Rights Department to be used as a guide and reference by the practitioners – notably the law enforcement officers, health care workers and the judicial professionals –who provide services to the victims and for the purpose of creating awareness among those victims who have sustained the physical, psychological and emotional effects of the committed crimes. 15,000 copies of the said guide have been published to be distributed to the relevant authorities. The guide includes guidelines about the points to be taken into consideration and the rules to be observed by the public officials while providing services to child victims.

### **Question 3.a**

In this context, various activities are conducted by several institutions:

#### **1. Ministry of Health:**

The goals included in the National Mental Health Plan of the Ministry of Health are "Enhancing the National Institutional Capacity to Provide Support in Cases of Disaster and Trauma" and "Conducting Works For Preventing Traumatic Childhood Experiences". Likewise, the goals included in the 2014-2017 Strategic Plan of the same Ministry are "Precluding Traumatic Childhood Experiences That Are Likely to Have Adverse Effects on Mental Development" and "Improving Service Delivery Before and After Cases of Emergency and Disaster". In line with these goals, **the Public Health Agency of Turkey organizes** – with the support of the personnel of the Ministry of National Education – the "Psychosocial Protection, Prevention and Crisis Response Program Training" **for the purposes of having the primary healthcare personnel providing psychosocial support services for children learn the concept of trauma, notice the adverse effects of trauma on childhood mental development and enhancing their skills and knowledge of basic approaches.** In addition, with the support of the Ministry of Health, trainings on "Approaching and Prevention of Traumas among the Children and the Adolescents" have been organized for school counselors in order to promote and develop the qualifications of the personnel of the Ministry of National Education.

#### **2. Ministry of Family and Social Policies:**

Those children who have entered our country without the company of a major who – by virtue of the laws or the customs – is responsible for them as well as those children who have drifted apart from their families are taken under the care and protection of the institutions that are subordinate to our Directorate General.

Unaccompanied children between the ages of 0 and 12 receive services from the Children Houses, the Children Houses Sites, the Children Care Houses, the nursery schools and the orphanages that are subordinate to our Ministry. From among the unaccompanied children, those who have become victims of crime, have been driven to crime, live on the streets and who are pregnant and drug addict receive services from the Children Support Centers that have the necessary specialization as required by the children's age groups (11-14 and 15-18) and sexes. As for the unaccompanied children between the ages of 13 and 18, the children support centers have been established in Ağrı, Konya, Yozgat, Gaziantep, Bilecik, Erzincan, İstanbul and Van. In our institutions, unaccompanied children are provided with care, nutrition, education and healthcare services as well as other services such as providing employment, language training etc. in cooperation with the relevant public institutions and organizations.

The ANKA Psychosocial Child Support Program is conducted in those Children Support Centers where the unaccompanied children - who have become victims of crime, have been driven to crime, live on the streets, are pregnant and drug addict - are under care and protection.

The program comprises modules such as ensuring personality development, changing the behaviors associated with crime and drug addiction, improving regular life skills, and these modules are applied to the addicted children.

The ANKA Child Support Program, which aims at ensuring a multi-perspective approach and involvement, consists of the Individual Needs and Risks Assessment Form (the "BİRDEF"), Group Works, Individual Consultancy, Family Studies, Supportive Environment Components, Guidelines of Approach for Supportive Personnel, Institutional Approach for Crisis Intervention.

For every child admitted in a child support center, a person is assigned - by the director of the center – as his/her counselor from among those professionals who work as social workers, psychologists, sociologists, psychological counselors, teachers or child development experts. The counselor fills up the Individual Needs and Risks Assessment Form (the "BİRDEF") for the child within the first 10 days.

The Individual Needs and Risks Assessment Form (the "BİRDEF") is composed of 68 questions addressing 13 problematic fields such as the child's way and reason to come to the center, his/her educational status, his/her family's economic status, the place where he/she lives, his/her friend relationships, his/her physical and mental condition, whether he/she uses substance, whether he/she has been abused or driven to crime, his/her personal characteristics, his/her behavioral problems, his/her family's characteristics and 6 questions dealing with the strengths. Once the form has been filled up, the child and his/her family are provided with work group and individual consultancy services depending on the needs and risks which show up.

### 3. Ministry of Justice

At the present time, psychologists, pedagogues and social workers at family courts in courthouses draw up reports and thereby assist courts during the cases such as divorce, child custody, adoption, personal relationship. Likewise psychologists, pedagogues and social workers at family courts prepare the social survey reports requested by the court in respect of the child victims who have been driven to crime.

Besides, teachers, psychologists, social workers and sociologists at probation directorates work on the rehabilitation and the reintroduction to society of the child victims who have been driven to crime.

In addition to all these, it is aimed with the Draft Law on Victim Rights – the preliminary works of which have been conducted by the Victim Rights Department – that the Directorates for Victims and Judicial Support Services be instituted to fulfill tasks such as providing – at courthouses – those victims qualified as vulnerable groups – which also include child victims – with consultancy services/psychosocial support and offering compensation and employment services in the settlement of their psychosocial problems. Moreover, it is envisaged that these

services would also be provided for those who have suffered from the crime in the event of death of the victim.

### **Question 3.b**

The Directorate General for Migration Management fulfill the proceedings related to the children described as victims of human trafficking pursuant to the Juvenile Protection Law. Those children who are described as victims of sexual exploitation/abuse are directed by the Provincial Directorates for Migration Management to the relevant units of the Ministry of Family and Social Policies.

The units of the Ministry of Family and Social Policies carry out the following activities:

#### **Individual Consultancy;**

Within the framework of the individual consultancy works, modules of running away from home, self-injury, suicide, victim of exploitation/abuse, crisis management and trauma are applied.

#### **Group Works;**

The group works consist of 5 sections – such as individual development, healthy living, emotional regulation, addiction and pregnancy – and 78 sessions. Each session lasts 45 minutes. While modules of individual development and healthy living are applied to all children, other modules which are applied according to the circumstances such as being driven to crime, victim of exploitation/abuse, drug addict and pregnant, anger management, impulse control disorder are applied by considering the children's individual differences and needs.

**The Addiction Module of Group Works** is conducted in sessions that are titled as follows:

- |                                 |   |
|---------------------------------|---|
| 1. Before the Sessions          | 10. Not to Give Prompt Reaction                       |
| 2. Effects of Alcohol           | 11. Learning How to Control Oneself                   |
| 3. Substances and Their Effects | 12. Coping with Drug Cravings                         |
| 4. What is Addiction?           | 13. Getting out of the Vortex                         |
| 5. Don't Get Conditioned        | 14. Risky Situations                                  |
| 6. Brain and Addiction          | 15. Saying "No" is for the Best                       |
| 7. Addiction Discredits         | 16. Stones of the Path to Recovery from Addiction     |
| 8. Devil's Advocate             | 17. New Stones of the Path to Recovery from Addiction |
| 9. Hazardous Candies            | 18. Quitting Smoking                                  |

The sessions are designed for the children who use substances and who are active alcohol abusers. In addition to the general group rules to be respected during the group works, some other group rules have been determined for those who use alcohol-substance, and these rules are put into effect during relevant sessions. During the first session and at the beginning of each subsequent session of group works, these rules are reminded; it is after then that the sessions are initiated.

During the sessions, forms are used for exercises, and those who are not literate enough are assisted. The session on the adverse effects of alcohol and smoking – which is included in the addiction module – is also lectured as a preventive training to those young ones who do not use alcohol-substance. While the sessions are designed as open group works, it is also possible to conduct them, in line with the practitioner's request, in close groups and by following the session order.

### **Family Studies;**

In family studies, whether a given family is prone to run the risk of acting in a manner to endanger the child's security is evaluated in the first place. Where there is not any impediment against the child's meeting his/her family, an agreement is made with the participation of the family. Within the framework of the program, the families are provided with individual consultancy services on empowering family-child relationship, effective parenting skills, approaching those children who are driven to crime, drug addict and victims of abuse.

### **Supportive Environment Components;**

Coupled with the effective consultancy system, the supportive environment components – as a part of the program - ensure active follow-up of every child staying at the center. The children and the personnel are informed of the program and its components; counselors and care personnel who will work subject to these counselors are determined; a "when starting the day" meeting is held with the children; and the children are given responsibilities by their counselors according to their ages and development levels and in a manner which would not bestow privileges upon them and value one child above others. In accordance with the principle of the child's right to participate, an agreement is made with the children.

### **Scoring and Grading;**

The scoring and grading system is an award-oriented system which evaluates and encourages the child's individual development in order to ensure organization at the centers. Ideally 3 but at least 2 grades are formed at the centers, and the higher the child's grade is, the better opportunities the child has other than his/her natural and legal rights. A child who has arrived at the center for the first time starts from the first grade; those children who respect the rules, participate in group works and other activities score points; and those who get high scores on a regular basis move up to the upper grade or down to the lower grade in the contrary case. Every center creates its proper scoring and grading system.

### **Institutions' Daily Life Routine;**

The daily life routines of the centers are structured in line with the program; the social, cultural and sportive activities as well as vocational courses are planned in accordance with the children's development levels by considering their characteristics, interests, skills and needs; and the rules that are created in line with this plan are hung in a size big enough to be seen by both the children and the personnel and at convenient points of the center.

### **Institutional Approach for Crisis Intervention;**

An institutional approach is determined at the centers, which would be adopted while intervening in crisis situations such as fight, substance abuse, self-injury, sexual exploitation/abuse, suicide risk and attempt, loss of a relative and breaking bad news.

### **Follow-up and Assessment;**

Under the ANKA Child Support Program, the support programs customized for every child are assessed once in every three months, and the developments achieved during the program are monitored. After the assessment, whether the child will be returned to his/her family or continue to participate in the program in a different social services institution is determined.

### **ANKA Base Personnel Training Program;**

The ANKA Base Personnel Training Program – which is one of the components of the ANKA Child Support Program composed of 12 modules – is implemented for the purposes of supporting all personnel including directors, counselors, care, security and cleaning personnel, cook etc. who work at child support centers, developing a common understanding and approach during the children's rehabilitation process, and standardizing the trainings.

### **Subject Headings of the Module include:**

1. Presentation on the ANKA Child Support Program
2. Communication
3. Approach to the Child
4. Supporting the Children's Development
5. Developing Positive Behaviors
6. Awareness-Raising Training on First Aid
7. Hygiene and Cleaning
8. Adequate and Balanced Nutrition
9. Risks and Risky Behaviors
10. Crisis Intervention
11. Limits and Our Responsibilities
12. Team Work

The Ministry of National Education conducts the following activities:

The Ministry updated the relevant legislation in order to enhance the scope and the capacity of the activities conducted for the Syrian, and the Circular no. 2014/21 was issued in October 2014. Moreover, the Regulation on the Non-Formal Education Institutions was revised, which lifted those obstacles preventing the Syrian from benefiting from the public education services.

It is on the basis of two main approaches that the Ministry conducts its activities for the Syrian and Iraqi people who are under temporary protection. The first one of them is including those Syrian and Iraqi people who lead their lives scatteredly all over Turkey into the current education system together with the Turkish citizens and enabling them have access to the services. In this vein, there is no obstacle against the students' maintaining their

education together with their Turkish peers starting from preschool until 12<sup>th</sup> grade. Furthermore, the Syrian students continue to be admitted to the public and private schools. The second approach, on the other hand, is our activity conducted with a view to educating the Syrian in those cities of ours and the temporary accommodation centers where they live and coexist densely, through a program specially prepared for them, in their own language and with the support of their proper teachers. In accordance with the Circular no. 2014/21, “temporary education centers” are being inaugurated within the temporary accommodation centers and in those regions where the Syrian and the Iraqi live densely. In those centers, the Turkish teachers teach the Syrian students Turkish, while volunteer Syrian teachers give other lessons in their own language. In doing so, it is aimed that the children would resume their education without a gap year, learn Turkish in the same time and thus be included in the Turkish education system. Works are under way for the student orientation program. 77,018 have already been taught Turkish in 2016. Summer courses are planned for teaching Turkish. The Ministry of Justice conducts the following activities:

Child-Friendly Interview Rooms have been established in 31 Provinces. The Child-Friendly Interview Rooms are those rooms that are technically equipped and in tune with the SEGBİS (the Sound and Image Informatics System) which provide the appropriate conditions to interview with the children who have come to the courthouses. Its standards were set within the framework of the **Justice for Children Project** conducted between 2012 and 2014 with the financial support of the EU and the technical support of the UNICEF and in partnership with the Training Department, the Directorate General for Prisons and Detention Houses of the Ministry of Justice, the Ministry of Family and Social Policies, the High Council of Judges and Prosecutors and the Justice Academy of Turkey. Works are under way on those matters related to the operation of these rooms.

The Child Follow-up Centers have been established within the body of those hospitals/institutions that are subordinate to the Ministry of Health for the purposes of minimizing the secondary traumatization of sexually exploited/abused children and ensuring that the judicial and medical procedures are fulfilled at one sitting and in a center composed of the persons educated in these fields. The Child Follow-up Centers receive the sexually exploited/abused children who have come via the prosecutor’s offices or those children who are suspected to have been sexually exploited/abused.

In July 2016, the Victim Rights Department prepared a report titled “Child Neglect and Abuse: Legislation, Services Provided, Practical Problems and Solution Proposals” in order to contribute to the works of the Parliamentary Investigation Committee instituted to investigate all cases of child abuse - notably sexual exploitation/abuse – and to set the measures necessary to be taken and presented it to the said Committee.

In addition to all these, it is aimed with the Draft Law on Victim Rights – the preliminary works of which have been conducted by the Victim Rights Department – that Victims and Judicial Support Services Directorates would be instituted to fulfill tasks such as providing – in courthouses - those victims qualified as vulnerable groups – which also include child victims – with consultancy services/psychosocial support and offering compensation and employment services in the settlement of their psychosocial problems. Furthermore, it is envisaged that these services would also be provided for those who have suffered from the crime in the event of death of the victim.

**Question 3.c**

The main challenges confronted can be enumerated as follows:

- The institutions and persons that are obliged to notify do not have much knowledge about the notification mechanism or they have reservations about running this mechanism.
- The families do not know what they should do during the process, and they have concerns.
- In some cases, the statement taken in the ÇİM is not considered sufficient by the judge, the child is once more summoned to the court where he/she is traumatized for a second time during the statement taking.
- Difficulties encountered during the implementation and monitoring of the injunctions issued.

The offence of sexual exploitation/abuse is mostly concealed. Therefore, it may be necessary to intervene promptly. It is necessary to take the measures required to determine such situations faster.

**UKRAINE**

## **II – Other States and other Stakeholders / Autres Etats et Parties prenantes**

### **ARMENIA / ARMENIE**

#### **Replies sent by the Police and State migration service**

##### **Question 3**

None of children applied for asylum were victims of sexual exploitation and/or sexual abuse.

#### **Replies sent by the UNHCR-Armenia**

##### **Question 3.a**

As noted above, the Law on Refugees and Asylum provides a legal basis for the accommodation, representation and guardianship, consideration of best interests, and interpretation for unaccompanied and separated asylum-seeking children. The State Migration Service is currently in the process of drafting standard operating procedures on appointing legal representative/guardian for separated/unaccompanied children and Save the Children has been fully engaged in the drafting process to ensure that the document is in compliance with the international standards and is in child's best interests.

However, there have not been any unaccompanied or separated asylum-seeking children identified in Armenia in 2016, since the adoption of amendments to the Law, to test the practical application of these legal provisions.

It should be noted that these provisions of the law do not specifically deal with the situation of victims of sexual exploitation and/or sexual abuse, and that they relate specifically to the category of unaccompanied and separated children, rather than children within the family.

While Guardianship and Trusteeship Committees are established, and Women, Children and Family Protection Units are set up, there are no State facilities in place to cater for the specific needs of migrant and asylum-seeking children victims of sexual exploitation and/or sexual abuse.

Efforts to strengthen the national child protection system are underway, including with the introduction of a State referral system, and UNHCR and its partners have been advocating for the mainstreaming of refugee children within this system.

To address the current gaps in response, Save the Children International Organization, within its Agreement with UNHCR in 2016 will identify emergency cases, explore possible referrals and/or organize proper care. Child psychologist (funded by UNICEF, working with UNHCR persons of concern) is also full time available for responding the psychological needs of traumatized children.

##### **Question 3.b**

The Law on Refugees and Asylum – without specifically mentioning victims of sexual exploitation or sexual abuse - provides for the placement of an unaccompanied or separated child in appropriate accommodation.



All asylum-seekers are entitled to legal aid in accordance with the Law on Refugees and Asylum.

## **AZERBAIJAN / AZERBAÏDJAN**

## **ESTONIA / ESTONIE**

No reply to this question / Aucune réponse à cette question

## **IRELAND / IRLANDE**

## **NORWAY / NORVEGE**

### **Question 3**

If a child is identified as a victim or is in risk of being a victim (group 2) to any form of sexual abuse, all the institutions are obligated to inform the child care services and in some cases also inform the police. The child care services are responsible for appropriate action in each case. Good cooperation between the different institutions and the best interest of the child is a primary consideration during the process.

### **Question 3.a.b**

UDI has some gender segregated reception centers. One of the purposes with separated divisions for women is to protect the girls from abuse. Both the asylum department and the reception centers have routines for giving information about a victims legal rights and how to seek redress. If a child is identified as a victim of sexual abuse during the asylum process both the asylum department and the reception centers are obligated to inform the child care services and in some cases also inform the police.

According to the Act on the entry of foreign nationals into The Kingdom of Norway and their stay in the realm (Immigration Act) section 98 a, persons under 18 years of age (minors) who are applying for protection and who are in the country without parents or other persons with parental responsibility, are entitled to a representative. The County Governor shall appoint a representative for the minor as soon as the County Governor learns that the minor is in a situation as mentioned in section 98 a. According to section 98 d of the Immigration Act, the representative shall ensure the minor's interests in the asylum case and otherwise perform such duties as are imposed on a guardian under other legislation.

The County Governor shall give the representatives in his or her district necessary training, guidance and assistance, and shall supervise the representatives in his or her district. The County Governor may include information on human trafficking and abuse of minors during the training, which may also include information on indications of abuse. In cases where there is suspicion of sexual abuse, the County Governor may provide further assistance and guidance to the representative.

If an unaccompanied minor asylum seeker is the offended in a criminal case, the representative exerts the procedural rights on behalf of the minor according to the Act relating to legal procedure in criminal cases (The Criminal Procedure Act), cf. section 93 g. The representative shall ensure the minor's involvement in the case and is normally given the opportunity to be present and speak if the minor is to be questioned by the police in

connection with the criminal proceedings. A specific measure taken by The County Governor of Oslo and Akershus is to appoint specific representatives with particular knowledge about cases involving children in criminal proceedings, including the procedures for questioning minors by the police (adapted questioning in cases concerning sexual offenses).

Furthermore, the Norwegian government is currently preparing a parliamentary bill to prevent and combat violence in close relationships and violence and sexual abuse against children. The bill will cover several measures to combat sexual abuse of children. The bill will be presented in October 2016.

## **UNITED KINGDOM / ROYAUME UNI**