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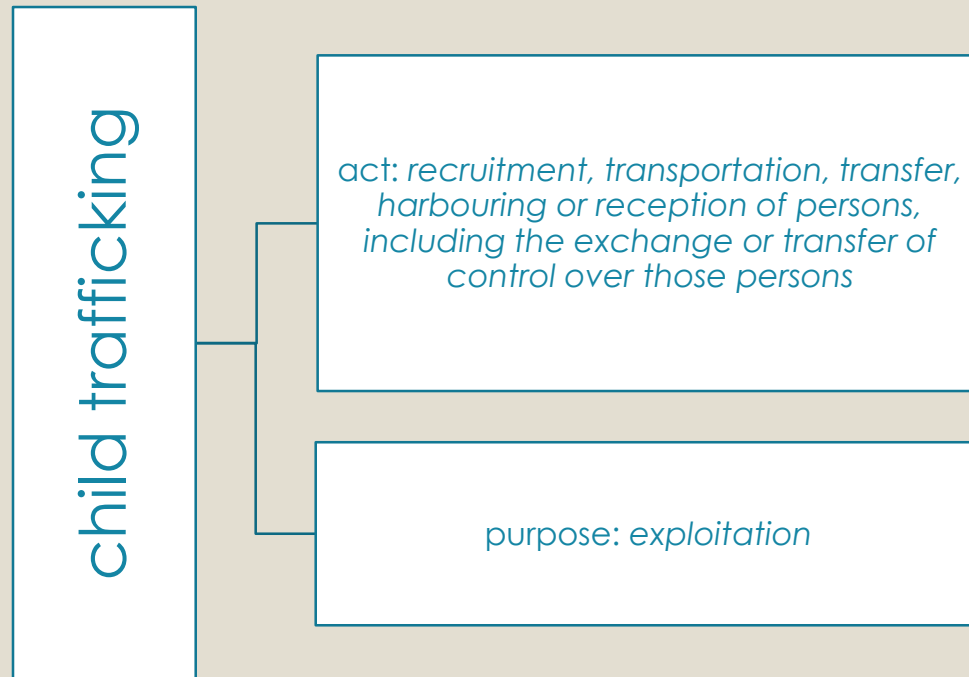
**Training lawyers, prosecutors, judges to ensure
better rights protection for migrants and refugees victims of human trafficking
— TRAIN-PRO-RIGHTS
850950 — TRAIN-PRO-RIGHTS — JUST-AG-2018/JUST-JTRA-EJTR-AG-2018**

**Challenges of unaccompanied and separated children to access to legal aid
Mara Pagona, Greece**



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Definition – Palermo Protocol



Art. 3 (c) states: “the recruitment, transportation, transfer or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if it does not involve any of the means set forth in subparagraph (a) of this article”

= Definition of Child Trafficking in National Legislation of EU MS

Specific instruments applicable to children

Child
protection
instruments

Convention on the Rights of the Child (CRC)

Optional Protocol on the sale of children, child prostitution
and child pornography

Instruments
in the field
of criminal
justice and
victims'
protection

Sexual Exploitation of Children Directive

Council of Europe Convention for the protection of children
against sexual exploitation and sexual abuse (Lanzarote
Convention)

Who are unaccompanied and separated children ?

'Unaccompanied children' are children, as defined in Article 1 of the CRC, who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

'Separated children' are children, as defined in Article 1 of the CRC, who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.


General Comment No. 6 of the UN Committee on the Rights of the Child

CEAS
Asylum acquis,
e.g. Qualification
Directive:
unaccompanied
minors

Vulnerability: Special procedural guarantees



Migration and asylum law
CEAS



Instruments protecting
victims of trafficking in
human beings
Instruments in the field of
criminal justice and
victims' protection

Who is a guardian?

- national level: inconsistent terminologies, the term guardian is used to describe persons with differing mandates and functions – other terms are also used
- A guardian is considered to be an independent person who safeguards the child's best interests and general well-being, and to this effect complements the limited legal capacity of the child, when necessary, in the same way that parents do

Special guardianship system for children victims of trafficking?

Special guardianship system for unaccompanied children?

Examples/ case studies (1)

- a Pakistani boy goes to the regional asylum office for the registration of the asylum claim (without a guardian). in his personal data, he declares as his address a shack in Manolada. The registration officer did not undertake any action.
- Vietnamese girls are caught in the airport unaccompanied, with forged documents. they are transferred to a shelter, from which they disappear the next day.
- a young boy from Afghanistan arrived unaccompanied. His brother, already living in Greece for some years, took his custody. The boy moved to an apartment, in which 45 people from Afghanistan were staying and was forced to work 16 hours per day in a farm.
- Mohammad entered Greece via the Greek-Turkish land borders, did not pass any RIC procedures and arrived in Omonia, where he met an older man who promised him an easy job to earn money. He is now earning like 5 euros for some sex acts, while the old man controls all the profits generated.
- girl 16 years old arrives with a man declared as her “husband”: they are subject to the reception and identification procedure. They did not possess any documents to prove their marriage. After an assessment it is determined that they are married, although as she revealed some months later, in reality the man was her father's friend, to whom she was sold.

Examples/ case studies (2)

- 16-year old A. from Nigeria was trafficked for sexual exploitation first in Italy and then in Germany. Her parents had believed the promises of the perpetrators that she would go to Europe for university studies.
- A Vietnamese boy came to Europe under pressure of his family to earn money. His parents took on a debt to finance his journey. In his destination country he was basically detained in a warehouse and forced to work for a Vietnamese man, who took from him his documents.
- UASC are forced to become smugglers and to transfer their peers from Turkey to the Greek islands, in order to pay off their debt. In other cases, they are coerced into performing smuggling tasks, such as guiding migrants across the land border, transporting them from one place to another within the country, or even advertising the services of certain smugglers in reception facilities

Individual obstacles

- a) Inability to self-identity as victims of THB
- b) lack of information on rights and entitlements
- c) control/ influence of traffickers
- d) material dependency on traffickers (debts)
- e) emotional dependency on traffickers
- f) history of physical, psychological or sexual abuse
- g) children as source of family income
- h) lack of linguistic and country specific skills

Contextual (1)

1. gaps in identification and referral [first reception and asylum procedures]
 - i. gaps linked to capacity and expertise of staff
 - ii. inadequate assessment of the individual needs & situation of the child
 - iii. unsuitability of the registration stage
 - iv. inadequate age assessment procedures
 - v. policy and asylum legal framework: overshadow of the asylum on THB
 - border and accelerated procedures
 - lack of training regarding specific skills on interviewing children
 - protracted procedures
 - interconnection with international protection status

Contextual (2)

2. absence of an integrated child protection system

1. accommodation scarcity
2. inadequate care provision
3. absence of a guardianship system
4. lack of integration measures

3. absence of a child-friendly justice system

4. lack of lawyers specialised in defending child victims

5. unaccompanied minors going missing

General recommendations:

- identification and referral
 - adequate guidance and training on child protection
 - procedure for the proactive identification of child victims of trafficking
 - break down the culture of disbelief
- design of a holistic child-protection system:
 - protective environment for UASC
 - assignment of a legal guardian
 - child specific training for professionals and carers
 - social and economic empowerment measures
- adjustment of the judicial system and capacity of law enforcement of personnel
 - skilled and appropriately trained law enforcement professionals
 - procedural safeguards aimed at protecting the child and avoiding retraumatisation

Thank you for your
attention!

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