



TRAFFICKING IN UNACCOMPANIED MINORS FOR SEXUAL EXPLOITATION IN THE EUROPEAN UNION

May 2001



IOM International Organization for Migration

This publication was produced by IOM Brussels in the framework of the “Pilot Project on the Fight Against Trafficking in Human Beings – Research and Networking on Unaccompanied Minors in the European Union” funded by the STOP Programme of the European Commission, and the governments of Belgium and Italy.

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ISBN 92-9068-108-X
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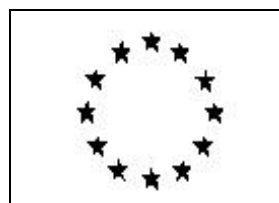
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**Pilot Project on the Fight Against Trafficking in Human Beings – Research and Networking
on Unaccompanied Minors in the European Union**

STOP Programme 2000



IOM • OIM



ACKNOWLEDGEMENT

IOM Brussels would like to thank the European Commission for its support for this project. IOM gratefully acknowledges the contribution of the Belgian Ministry for Interior (Aliens' Office) and the Italian Ministry for Interior for supporting and funding of this project.

IOM Brussels also wishes to thank "Terre des Hommes - Deutschland" for its cooperation in the preparation of the German country report.

Deepest acknowledgements and special thanks go to the four researchers who produced the country reports. Mrs Ching Lin PANG for Belgium, Mr Uwe POLLMANN for Germany, Ms Annalisa VICARI for Italy and Ms Elizabeth VENICZ for the Netherlands.

Finally we owe an enormous debt of gratitude to all persons responsible for action to combat trafficking in human beings (i.e. social workers, NGOs, police and immigration and border control departments, law enforcement units, authorities in the ministries of Justice, Social Affairs, etc.) who participated in this study. These are partners IOM works with on a daily basis in its action to combat human trafficking, and we look forward to continuing and developing this cooperation in the future.

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EXECUTIVE SUMMARY

This study aims to highlight the scale of trafficking of unaccompanied minors for the purposes of sexual exploitation or bonded/forced labour and slave like practices. The research was carried out by IOM Brussels within the framework of the European Commission's STOP Programme for 2000 focusing on the extent of the problem in four EU Member States: Belgium, Germany, Italy and the Netherlands.

The main objective of this research was to assess the vulnerability of unaccompanied minors by traffickers, identify the practices and mechanisms of transnational crime and define strategies to prevent this phenomenon, as well as how to better assist the victims. In recent years, Belgium, Germany, Italy and the Netherlands have witnessed an increase in the number of women and minors trafficked into their national territories, yet relatively little is known about the profile and conditions of these minors. On the basis of recent reports and information provided by the public authorities of the countries in question and NGOs working in these countries, the study found that victims of trafficking either apply for asylum or reside illegally in these countries.

Unaccompanied minors – both asylum seekers and irregular migrants – make up a small percentage of the overall migrant population and are likely to follow in the footsteps of adult migrants and asylum seekers to a given destination. This is one of the main reasons why it is vital to examine the trafficking and irregular migration patterns of adults, and the asylum process as the starting point, in order to analyse this phenomenon. However, this trend tends to diverge, as indicated in the country reports. Nonetheless, according to the Belgian Aliens' Office, 2 016 unaccompanied minors (UAMs) requested asylum in 1999, while in the Netherlands the figure reached 4 835 for the first nine months of 2000. In Germany, the number of UAMs has risen during the last 15 years from an estimated 5 000 to 10 000 in 2000. In Italy, in 1999, 16 551 minors landed on the coast, accounting for 33% of the overall number of new arrivals of illegal migrants¹.

The main findings in the study were:

- Lack of comprehensive data on trafficking;
- In spite of the lack of exact data, there is obviously an increase in the number of minors trafficked for sexual exploitation;
- Exploitation of minors in the informal sector by traffickers, and
- A large number of unaccompanied minors disappear.

Overall, the study found that in order to prevent and combat trafficking in unaccompanied minors, it is important to tackle issues directly related to criminal networks. However, it is equally important to deal with other issues that have the potential to decrease the vulnerability of the child vis-à-vis criminal networks, such as improving socio-economic opportunities in the countries of origin, and reception and protection measures in the countries of destination.

This study resulted in recommendations aiming at prevention and fight against trafficking in unaccompanied minors. These recommendations aim at persons responsible for combating

¹ Unfortunately, these figures do not indicate how many of these children were accompanied and how many were separated children.

trafficking in human beings and those working with minors. They cover a variety of issues, starting with an appeal to the EU Member States to agree on a common definition of unaccompanied minors and to ensure that their needs and rights are fully recognised according to international conventions and guidelines, such as the Convention on the Rights of the Child. The recommendations also focus on the need to gather and exchange information among persons responsible for this target group in a multi-disciplinary manner. Improving statistical data, increasing research and strengthening co-operation among different interlocutors also form part of the recommendations. Furthermore, the proposals also concentrate on several items regarding prevention, assistance and protection in countries of origin and destination, such as: implementing information campaigns, supporting pilot projects focusing on groups at risk, improving reception facilities, ensuring appropriate guardianship, and granting minors victims of trafficking special resident permits towards temporary or permanent stay in the country of destination. A full list of recommendations will be found at the end of this report.

We hope that this study will contribute to raising awareness on the subject among persons responsible for combating trafficking in human beings and those working with unaccompanied minors. In addition, our expectation is that this study will be a seed for future initiatives in order to prevent and combat trafficking in human beings, particularly among unaccompanied minors.

PROJECT BACKGROUND AND OBJECTIVES

The phenomenon of trafficking in human beings is of growing concern to the EU Member States and the international community. In order to counteract it, the European Commission and the United-Nations agencies, as well as other intergovernmental agencies such as IOM, have decided to develop legislative, policy and practical initiatives and to provide assistance to the victims. The efforts of the European Commission, EU Member States and IOM have led to, among other results, the STOP Programme.

A further effort to combat trafficking in human beings was the signing by more than 120 nations of the new UN “*Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime*” and the “*Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*” on 15 December 2000 in Palermo. With this Convention, the international community is now advancing in the construction of an international framework of legal instruments aimed specifically at confronting the most serious threats to human rights and civil liberties. The Convention brought together the “best practices” developed in several parts of the world to be made available to policy-makers, investigators and civil society to prevent large scale/organised crime. The next step is that the protocol has to be implemented.

Although this international convention sets guidelines for curtailing trafficking in human beings, the phenomenon is constantly evolving. Subsequently, in order to combat trafficking, targeted analysis is needed so as to address the rapid changes, especially the exploitation of minors who are the main concern of this report.

In addition to developing policy guidance, the overall purpose of this pilot project was to generally highlight the growing phenomenon of trafficking in minors to be addressed by the EU Member States. In different EU Member States such as the Netherlands and Belgium, trafficking in adult and minors for sexual exploitation has recently become a priority for the police and the judiciary. The number of cases brought before the courts against traffickers has been steadily increasing as a result of growing police attention. Since little information has been systematically gathered on the issue of trafficking in minors, one of the primary aims of this report is to determine to what extent minors are trafficked for the purpose of sexual exploitation, as well as other forms of bonded/forced labour, such as irregular employment, begging and stealing.

The key questions addressed by this research are:

- What is the size and scope of the phenomenon?
- What are the trends and main countries and regions of origin of this group?
- What makes minors vulnerable to exploitation by criminal networks?
- To what extent do the social networks of unaccompanied minors change as a result of criminal networks and to what extent do these changes create new trends regarding the countries of origin and destination?
- What are the typical living and working conditions of the victims?
- What form of assistance exists and what additional help is necessary and feasible?

METHODOLOGY

A researcher was recruited in each of the countries participating in the STOP Programme, i.e., Belgium, Germany, Italy and the Netherlands to, over a period of 7 months, produce a country report. Each report is based on the available documentation, statistical and research data, interviews and discussions with social workers working in shelters for victims of trafficking, representatives from NGOs, law enforcement agents, and representatives of ministries (e.g., Justice, Interior, Social and Foreign Affairs) dealing with issues of minors or victims of trafficking. All researchers were asked to follow the same outline including the following items:

- The legal framework defining Unaccompanied Minors
- The institutional framework responsible for dealing with the reception of minors
- The different forms of trafficking and exploitation of minors
- The policy implemented to respond to this issue/phenomenon

Given the covert nature of trafficking and prostitution, the information available is not always amenable to the traditional forms of scientific research. However, it is important to bear in mind that differences regarding conditions in each EU Member State and the groups of minors create differences in terms of information and outcome of the country reports. Finally, this research is aimed at contributing towards policy recommendations with a view to defining durable solutions for combating trafficking in minors.

CONTEXT

Dynamics of Trafficking in Unaccompanied Minors

The countries of origin of unaccompanied minors in the EU Member States have become increasingly diverse over the years. The main regions of origin are: Central and Eastern Europe (e.g. Moldavia, Romania and Ukraine), Africa (e.g. Nigeria and Sierra Leone) and Asia (e.g. China, Afghanistan and Sri Lanka). Additionally, it is important to identify the reasons behind this trend and how they can improve our understanding of the mechanisms of trafficking.

Push Factors

When discussing the reasons for flight or migration, it is important to address the “cause and effect” elements. However, as these elements are usually generic, they must be interpreted with a certain sense of balance. The main reasons for flight to Europe are often long-lasting political crises, civil war, religious, or ethnic conflicts as well as persecution or discrimination of minorities. However, immigrants can also be driven by the death, disappearance or imprisonment of individual family members. In many cases these shattered families attempt to get their children, the weakest family members, to safety. For instance, the increased number of UAMs coming to Italy can be explained by the conflict situation in the Balkans: in 1999, out of a total 15 843 minors who arrived in Apulia, nearly 90% came from the Balkan region –(9 958 Kosovars , 2 815 Montenegrins and 1 084 Albanians). In Germany, one of the main reasons given for flight amongst the Kurdish UAMs is the fear of compulsory military service in Turkey. Moreover, the tightened immigration controls at the peripheral borders of the European Union have led to an increase in the number of asylum seekers and irregular migrants using trafficking/smuggling networks in order to reach the EU. The growing involvement of criminal networks has led to an increase in the level of violence, as well as the price for passage, making the victims more vulnerable to abuse.

Another major reason for migration can be put down to serious socio-economic crises in the countries of origin. The collapse of the Communist regimes in Central and Eastern Europe has led to the destruction of the social fabric, community life, family structures and norms. In Germany, it is clear that unaccompanied minors come, almost exclusively, from poorer, economically underdeveloped and/or conflict countries/regions, such as Romania, Kurdistan, the NIS (Newly Independent States) or Africa. Most of them come from family structures that are either broken or have a significant level of internal conflict as a consequence of high unemployment, low income, social insecurity, and in some cases, a high birth rate. Minors have often experienced a high degree of violence, frustration or disappointment prior to migration. In Belgium, unaccompanied girls from Eastern Europe form a group that is particularly vulnerable to traffickers in human beings for sexual exploitation because of the bleak situation at home. In most cases, they come from broken homes. Moreover, in their own society, they have no opportunity to lead a balanced and normal life.

These children often report that their parents readily accept – and sometimes actively encourage – their migration as a form of sustenance for the entire family. Family expectations, a sense of duty and short-term survival strategies with which they are imbued, often become an obstacle to their integration: it is not uncommon for these minors to drop out of school because they consider it a “waste of time” compared to the need to make money. However, in other cases the situation is the opposite since improving the minors’ chances to get a better education, and therefore a better future, is the main objective of parents.

Another important push factor is that immigrants returning home are often inclined to promote false or exaggerated beliefs about life in their host countries: rather than facing the shame of having failed in their migration project, or for fear of being rejected by their families, in the case of girls subjected to trafficking for the purposes of sexual exploitation. Therefore, they often lie about their lives while away from home and imbue other potential migrants with false expectations. The media also help to spread an unrealistic view of life in Western Europe, thus encouraging the image of an “ideal and prosperous society” in which life is better, and where making a living is possible. Moreover, it is important to notice that notions of entitlement (i.e., social services, welfare, etc.) by recent migrants have in the last few years changed with higher expectations of the services provided by the host society. This situation is partly due to lies spread by recruiters. In most cases, the potential migrants’ assessment of risk factors of migration and the uncertainties regarding their reception and settlement in the host society are based on adverse conditions in their countries of origin, thus there is a sense of little or nothing to lose in the process.

Researchers also noticed that Eastern European girls tend to be more individualistic, thus facilitating the work of recruiters when promising better opportunities for employment and a “new life”. As for the Albanian cases, particularly the boys, there is certainly pressure from the families for them to emigrate in order to work and send remittance back home. It could, therefore, be concluded that Albanian minors bear similar characteristics to those of adult migrant workers. Moreover, as regards girls trafficked for sexual exploitation, the involvement of family members having close connections with such activities is visible, particularly in the case of Nigerian and Albanian nationals.

Pull Factors

The increasing number of UAMs in some European countries (The Netherlands, Belgium and Italy) trafficked for sexual and other forms of exploitation may also be explained by some pull factors specific to certain demands in the sex-trade or in the informal sectors. For example, social workers

working with victims of trafficking in human beings for sexual exploitation have noticed that there is an increasing demand for young women and girls, coupled with a demand for unsafe sex. This is based on the presumption that young persons are less likely to be infected with AIDS and STDs (Sexually Transmitted Diseases).

Furthermore, the increase in control over sex tourism may have led criminals to bring the supply closer to the market in order to avoid checks by the authorities while at the same time responding to demand. However, the demand factor should not be viewed as the only pull factor, since traffickers may be targeting this group for reasons such as: willingness to migrate in view of the lack of socio-economic opportunities, breakdown of family structures combined with generation conflict due to age gaps (particularly in the case of Eastern Europeans), easier stay due to special status as minors, and increasing pressure from family members to seek employment abroad due to income differentials between countries of origin and destination.

Moreover, despite the restrictive immigration policies towards unskilled labour in the EU Member States, many economic sectors are seeking cheap casual labour and migrants including minors are willing to seize these opportunities.

In some cases, the presence of ethnic communities in the host country also facilitates the migration of third nationals. “Chain migration” or “social network” theories claim that these networks can play a central role in the decision-making process relating to migration through provision of information. Social networks can also play a role as supporters and facilitators, particularly during the initial settlement period in the host country. This represents a strong pull factor, since irregular migrants are far more dependent on social and other networks for information and basic needs (e.g., housing, work, etc.), compared to legal migrants. Historical and cultural links, as well as geographical proximity between countries of origin and destination also contribute towards migration of specific groups to a given destination (e.g., Albanian migratory flows to Italy).

UAMs are also exploited by organised criminal gangs which use them as drug couriers (Germany and Italy) or as thieves (Romanian gangs in Germany), thus benefiting from the fact that if caught by the authorities, some of these minors will be exempt from criminal procedures as juveniles. For instance, in Italy, Moroccan children have been found involved in drug dealing. They are recruited by adults who use them for such activities so as to reduce their own personal risk of being involved in criminal proceedings. The method used to enrol these minors is generally a mix of persuasion and trickery: the children are told that they run no risk at all, and even if they are arrested, they would only be put into a care centre from which they could easily escape. One must further consider how these offences are perceived from the child’s point of view: many juveniles perceive certain forms of delinquency (such as drug dealing) as “minor” offences, and therefore end up considering their criminal activities as a fully-fledged job, without ever fully appreciating the penal consequences of their behaviour.

Another pull factor might be the protection system granted by EU Member States, coupled with the difficulties in returning the minors to their respective countries of origin. The chances of obtaining a temporary or permanent residence permit are significantly higher via the special regulation for UAMs, than for the average migrant. The immigration authorities in EU Member States maintain that this incites a growing number of adults to claim to be unaccompanied minors when applying for asylum. Moreover, respondents have the impression that smugglers direct young people from these countries to the UAMs procedure.

In the case of Italy for example, the majority of these children illegally entering the country seem to be well aware of the laws and instruments of protection available to them. Certain interlocutors interviewed tell of minors arriving at social services centres or police stations with a “full list” of demands: residence permits, protection, admission into reception centres and insertion in the labour market. Currently, several EU Member States are moving towards changing the asylum/protection policies in order to decrease the attractiveness of this particular status. However, one may consider that a shift in social assistance and asylum/migration policy may place the minor in a more vulnerable situation vis-à-vis the criminals, as opposed to having the effect of diminishing migratory flows. After all, strict migration policies, combined with the lack of opportunities in countries of origin, may in fact increase the reliance on well informed traffickers and smugglers with the consent of desperate or “naïve” parents.

CONCLUSIONS

Lack of comprehensive data

According to UNHCR/Save the Children “Separated Children in Europe Programme”, in general statistics in Europe are limited within the EU Member States. Furthermore, the hidden aspect of the phenomena of trafficking and prostitution makes this exercise a very difficult one, especially with regard to small groups, such as minors. In the Netherlands, no reliable statistics on trafficking in minors exist. One of the organisational problems in fighting trafficking in UAMs is the difference and sometimes lack of a good registration system. There are only indications on the extent of trafficking for the purposes of prostitution, whereas minors are not registered separately. In Germany, there is no concrete information since there are no centralised statistics and all Länder institutions use different registration methods. Therefore, it is rather difficult to state that the situation is dramatically different in Germany since there are gaps in the data. There is also a great lack of statistical data available to the police institutions where criteria on child trafficking do not exist. As such, there are several main reasons for the significant gaps in the data at all levels. Data are frequently not recorded according to the same categories and formats; there is also an absence of a centralised data bank and information is held by different institutions (in the Netherlands and Germany, each administrative region has its own criteria) and resources for data collection are often scarce.

Despite these problems, there is a need to improve the system of data collection and exchange of information, since the lack of identification of cases of trafficking in human beings among minors leads to the invisibility of the problem. This makes it more difficult for those working in this area to respond to the problem by developing and implementing policy and initiatives to combat trafficking, as well as allocating the appropriate resources to it. In 1998, IOM implemented a STOP project on the availability and development of trafficking statistics in 27 countries. In addition to the EU, this project covered a number of countries of destination and transit as well.

In spite of the lack of exact data, there is obviously a rise in the number of minors trafficked for sexual exploitation

In spite of the prevailing shortcomings in the statistics, there is a widespread belief among public authorities and social workers that trafficking in minors for sexual exploitation is on the increase. In the Netherlands, Italy, Germany and Belgium, there are distressing incidents of trafficking, such as the smuggling of young Eastern European and Nigerian girls to brothels through prostitution rings.

However, even after making inquiries, it is still unclear whether there are always criminal networks and structured gangs behind cases of child trafficking. Although organised crime undoubtedly plays a role, police investigators, care facilities, and aid organisations warn of the danger of assuming that organised crime is at the heart of all trafficking. Their experiences suggest that it is not unusual for individuals, small criminal groups or occasional criminals to seize and traffick minors.

The report on the situation in the Netherlands gives a thorough analysis by nationality of the groups involved in the sex trade. In the Netherlands, the minors that are trafficked for the purpose of sexual exploitation have been coming from the same countries for a number of years now. Though each nationality seems to have a standard pattern in which girls are recruited and forced into prostitution, it is important to bear in mind that individual cases never comply totally with the general stereotype. The extent of force and deception differs from case to case. Since most traffickers do not work in large gangs, methods of individuals vary and adapt quickly to changing circumstances.

Increasingly today, minors are being taken to Germany for short periods of time in order to be exploited by criminal networks involved in prostitution. This phenomenon has been observed in the border regions between Germany and the Czech Republic. In Italy, although the official figures released by the Ministry of the Interior include only 202 victims of child prostitution in 1999, the phenomenon is widely regarded as being vastly underestimated. Social workers believe that minors account for between 16 and 30% of the prostitutes that they assist. Furthermore, 70% of the interlocutors interviewed reported that the majority of the girls trafficked for the purpose of sexual exploitation come from Albania, followed by Nigeria and Moldova. One interesting aspect is that these national groups are also prevalent in Belgium, and the Netherlands (i.e., Nigerian).

Exploitation of minors in the informal sector by traffickers

In Germany, the case of child trafficking seems to refer almost exclusively to the exploitation of minors for petty offences or for sexual exploitation. Although there are suspicions that minors are transported to Germany for the purpose of labour exploitation in weekly markets or in fast food outlets, there is no evidence to support these suspicions. In Italy, minors that are victims of trafficking for labour exploitation feature strongly in the informal sector or “black labour market”, performing a variety of activities such as street peddling, begging, etc.

Stealing and begging are the two main activities in which criminal networks are exploiting trafficked minors. In Germany for instance, police investigations have uncovered an organised child trafficking ring of Romanian minors. This initiative came about after it was noted that in several big cities in Germany the offences committed by Romanian minors had increased drastically. Most of the children involved came from poor areas of North Eastern Romania and were, after flimsy promises by the traffickers, handed over by their families. Some of them were smuggled from Poland, Ukraine, Slovakia or the Czech Republic. These traffickers are said to have smuggled about 250 children and juveniles from Romania to Germany by 1998 alone, with the aim of using them as child thieves.

In Italy, begging is also an activity forced upon minors, especially Slavs, Romanians and Albanians. These children – mostly boys – are forced to live in abandoned farmhouses located in remote suburbs, in inhumane conditions. They are mainly exploited by adult co-nationals who force them to work for more than ten hours a day at railway stations in large cities or at heavily frequented crossroads. In the Netherlands, there are indications that debt bondage by traffickers has led to minors being forced to work in the informal sector in order to pay off their debts.

A large number of unaccompanied minors disappear

The disappearance of minors from reception centres is a major concern for organisations dealing with this group, as well as for the governments in the host countries. The impotence in preventing minor victims of trafficking from disappearing and resuming prostitution has led to a tendency to limit the freedom of movement of minors by placing them in youth prisons. In the Netherlands, in 1996, workers in asylum seeker centres started noticing that many girls from West African countries disappeared quickly after their request for asylum. The law enforcement authorities found some of them in brothels in the Netherlands, Belgium and Germany. In Belgium, the authorities believe that given the young age of minors and their lack of experience, it seems plausible to assume that when an UAM disappears, s/he is likely to come in contact with networks, including traffickers in human beings. In 1997, in the case of one open reception centre, only 67.8% of the UAM asylum seekers transferred to the centre allocated to them by the public authorities turned up. One of the alarming aspects of these figures is the fact that half of those who did not show up were girls. This fragmentary piece of data clearly shows the propensity of girls to disappear and to most likely enter into prostitution. A significant number of minors, both asylum seekers and irregular migrants who disappear are in fact on transit to other EU Member States, such as Great Britain.

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1. METHODOLOGY

This report is based on interviews and discussions with Belgian social workers and government and police officials, whose work involves dealing with issues pertaining to unaccompanied minors (UAMs) asylum seekers and UAMs in an irregular administrative situation. This method was adopted given the relative paucity of available data and general literature on UAMs. Thus in introducing the UAM problem, the report also provides extensive descriptions of asylum and trafficking issues. UAMs enter Belgium through the intervention of smugglers/traffickers in human beings. Some of the UAMs apply for asylum but others do not. In total, 22 people were contacted, eighteen of whom were interviewed at their centre/organisation for at least 2 hours each. The remaining four people were contacted by telephone. All the respondents proved to be highly cooperative in sharing their knowledge and experience. Some even extended their assistance by providing the author of this report with their personal collection of newspaper cuttings, covering all issues pertaining to trafficking in human beings, child abuse, and general migration affairs, over the 1992-2000 period.

Given the fast changing dynamics of migratory flows, the challenge for governments to adequately deal with new movements and groups of UAM asylum seekers and UAMs in an irregular administrative situation, the contribution of the people working in the field and having direct contact with UAMs and the law enforcement agencies is indispensable, since these people are the only source of up-to-date information on UAMs.

Moreover, qualitative findings are intrinsically significant since migrants are in the first place people who leave their countries with a particular project and not just a mere statistical element. Through the case studies of UAMs, more insights can be gained into the dynamics of trafficking, the various forms of exploitation and the different actors involved in this process. These insights are a necessary tool for developing more effective and durable (immigration, integration and possibly return) policies relating to UAMs, asylum seekers and non-asylum seekers. Secondly, the available literature on migration, trafficking and UAMs with special reference to Belgium was consulted.

2. UNACCOMPANIED MINORS

2.1 DEFINITION

2.1.1 General definition

The term ‘non-accompanied minor’ refers to ‘a subject of a country not located within the European Economic Space who has not reached the age of 18 and who enters Belgium or lives there without being accompanied by his/her father, mother, legal guardian or spouse’². In this definition, a minor accompanied by his/her grandmother or aunt is regarded as an unaccompanied minor.

This working definition notwithstanding, Belgian legislation does not have a definition for ‘unaccompanied minor’ and thus no legal provision apart from the application of Article 118 of the Royal Decree on Aliens of 8 October 1981 (and since modified), which stipulates that ‘apart from a special decision by the Minister for Justice or his delegate, no order to leave the territory can be issued to an alien who is below the age of 18 or who is a minor according to his/her administrative status. The order to leave the territory is replaced by an order to be accompanied in keeping with the model in Annex 38’³.

2.1.2 Distinction between UAM asylum seekers and UAMs in an irregular administrative situation

Unaccompanied minors filing an asylum claim are (temporarily) legal or regular asylum seekers awaiting the outcome of their asylum application, whereas unaccompanied minors in an irregular administrative situation consist of all the other categories including rejected UAM asylum seekers or those who have never applied for asylum and thus have never come into formal contact with any of the public authorities of the receiving country prior to interception by law enforcement agencies or by voluntarily reporting to an NGO. Minors abandoned by adults are also considered as migrants in an irregular administrative situation.

Similarly to the previous category of UAM asylum seekers, there is no specific legislative provision for UAMs in an irregular administrative situation except for Article 18 of the Royal Decree on Aliens of 8 October 1981.

2.1.3 Four categories according to the administrative situation (Unit of unaccompanied minors at the Aliens Office)

The Aliens Office internal memo of 1 April 1999 defines four categories of UAMs according to their administrative situation, namely: 1) UAM asylum seeker already in the country; 2) UAM asylum seeker at the border; 3) illegal UAM/UAM in an irregular administrative situation already in the country and 4) illegal UAM/UAM in an irregular administrative situation at the border⁴. This differentiation is important in terms of reception and residence documents. For instance, an UAM asylum seeker already in the country can stay in one of the federal reception centres and receives

² Hongenaerts and Van Coillie 2000: 106.

³ Hubeau and Foblets, 2000:156.

⁴ Hongenaerts and Van Coillie 2000.

the same residence documents - Annex 26 - as adult asylum seekers, whereas the UAM in an irregular administrative situation is placed in one of youth institutions by the service in charge of affairs relating to young people at the Community level, notably the 'Comité voor bijzonder jeugdzorg' in the Flemish Community and the 'Service de l'Aide à la Jeunesse' in the French-speaking Community. Concerning formal residence documents, prior to 1 April 1999, UAMs in an irregular administrative situation were not entitled to receive these documents, given their illegal status. This makes them even more vulnerable to exploitation by traffickers in human beings. Since then, UAMs in an irregular administrative situation receive temporary residence documents, initially a renewable 'arrival declaration' document, valid for three months, followed by a temporary certificate of registration, and by a permanent certificate of registration in the event of regularisation of their situation (cf.B.2.a: Admission and determination procedures).

2.2 INSTITUTIONAL FRAMEWORK

2.2.1 UAM asylum seekers

a) Admission and status determination procedures

As mentioned earlier, in Belgium there are no specific legal provisions for UAMs, asylum seekers and non-asylum seekers. In terms of competent ministries, authorities and specialised agencies, there is no specific unit dealing exclusively with UAM asylum seekers (and UAM non-asylum seekers).

Concerning the asylum claim, UAMs follow the same procedure as adults. The 15 December 1980 law on the admission to Belgian national territory, stay, establishment and expulsion of aliens stipulates the division of powers between the three public authorities dealing with asylum claims, notably the Aliens Office⁵, the General Commission for Refugees and Stateless Persons and the Permanent Commission for Appeals⁶.

At the Aliens Office, the same staff interviewed adult and minor asylum seekers until September 2000⁷. However, since then, four interviewers have been appointed to specialise in interviewing minors in keeping with the 1989 Convention on the Rights of the Child. In terms of content, four additional questions are included in the standard questionnaire. Firstly, UAMs are asked whether they have parents, uncle(s) or another legal guardian. Secondly, they are asked for their name and their address. Thirdly, they are asked about their age. This is an important point since the age declared by the minor is used as the official age for the remainder of the procedure unless doubts arise. In this case, a bone x-ray can be requested by different authorities for age assessment purposes. Fourthly, UAMs are asked to describe their activities on an ordinary day in their country

⁵ The Aliens Office is part of the Ministry of Internal Affairs, while the General Commission is an independent administrative authority. The Permanent Commission for Appeals is an administrative tribunal. The Aliens Office is responsible for admission to the territory and decisions on the admissibility of the asylum claim, the first stage of the admission and determination procedures. When the Aliens Office turns down an asylum claim, the General Commission for Refugees and Stateless Persons takes over responsibility for the decision on the appeal against the decision on the inadmissibility of the asylum request. This urgent appeal has suspensive effects. The General Commission is responsible for the decision on the substance of the asylum request, whereas the Permanent Commission for Appeals is responsible for appeals against negative decisions on applications for refugee status issued by the General Commission. This appeal has suspensive effects.

⁶ Saroléa and Burnet 2000.

⁷ Source: personal communication from an interviewer at the Aliens Office.

of origin. The last question is asked in order to facilitate appropriate reception. The four interviewers do not deal exclusively with minors but also interview adults. For 2001, an additional staff member will be added to this team. Moreover, the five members will each be responsible for one of the following regions: 1) Africa; 2) the former Soviet Union; 3) Asia; 4) South America and 5) Eastern and Central Europe. By so doing, each interviewer can specialise in one geographical area and its specificities. These staff members have competence in both legal and psychological fields. In particular, those working in the Africa section deal with very young minors, i.e., children of 6-7 years old. Besides the interviewer, a psychologist is also present during the interview⁸.

In terms of approach, the interviewer spends more time in dealing with minors than with adults. In addition, the interviewer applies more lenient rules in interpreting the account given by the minor. Whereas adults are questioned about recent events and general developments in their country of origin, minors are not necessarily expected to have this information. Furthermore, the account of an adult is assessed on its logical coherence, while inconsistencies and irrationalities are tolerated in a minor's narrative. This practice takes into account the limitations of minors' young age in terms of reasoning abilities. When an interpreter is needed, an effort is made to choose an UAM-friendly person with a high awareness of the UAM issue in terms of vulnerability and young age.

At the General Commission for Refugees and Stateless Persons, certain measures have been taken in accordance with the 1989 Convention on the Rights of the Child, as indicated in the internal note issued on 30 October 1995. Firstly, a team of four specialised staff members has been designated to four geographical areas, i.e., Europe, Africa, Asia and the former Yugoslavia, to process asylum applications by minors⁹. Secondly, during the interview, the interviewer takes into account the age, maturity and personal development of the minor. An interpreter, if necessary, assists the minor. A lawyer, a social worker and any other trustworthy person, such as a member of a host family or a member of the extended family may also assist the minor during the interview. The latter is not present during the entire interview¹⁰. In practice, most minors appear for the interview without legal counsel. However, free of charge legal counsel (previously known as *pro deo*) can be provided and paid for by the authorities.

Priority may be given to asylum claims of UAMs. In some cases, specific attention to minors' applications results in a longer procedure than the procedure for adults.

b) Guardianship and legal representation

Under Belgian general law and in the framework of the law on aliens, the provision for legal representation or guardianship for UAMs filing for an asylum claim does not function adequately. In theory, the local public centres for social assistance, (OCMWs in Dutch and CPAS in French) are legally responsible for the guardianship of UAMs on their territory. However, in reality, except for

⁸ In spite of the goodwill and best intentions on the part of interviewers, they do not have any formal training in dealing with UAMs except for ad hoc training sessions on issues related to UAMs such as traumatology. To be fair, these specialised staff members have been working with UAMs for only a few months. No doubt a higher degree of professionalisation such as continuing training will be required in the near future in order to facilitate an adequate reception of UAMs.

In terms of representation, at this level the minor has no right to request for a lawyer or the presence of a legal guardian.

⁹ At present, there are 10 full-time interviewers for Africa, 5 part-time interviewers for Asia, 6 part-time interviewers for Europe and 6 part-time interviewers for the former Yugoslavia, resulting in a total of 27 specialised staff members (Source: personal communication from Isabelle Lammerant).

¹⁰ Lammerant 2000.

one local centre in Assesse, most of these centres are either not aware of their responsibility, or simply lack the necessary financial means. This is clearly a legal vacuum, which needs to be redressed urgently. In order to safeguard the ‘best interests’ of the minor, it is essential that s/he be assisted by a guardian or an advisor during the entire length of the asylum process. In fact, the creation of such a law, which provides a system of legal representation or guardianship, is being discussed and pressed for by many actors and organisations dealing with UAMs¹¹.

As mentioned above, a minor may request for legal counsel at the General Commission. At the Aliens Office, no special efforts are made to provide the minor with either a legal guardian or counsel. Minors are neither informed about these rights, nor do they receive advice or assistance to procure legal representation. As a matter of fact, lawyers are not allowed to attend the interview at the Aliens Office, the argument being that there is a high possibility that the lawyer might be hired by a criminal trafficking organisation¹². Overall, the mere fact that minors end up not having legal representation and are thus unprotected is not in line with the international guidelines as stipulated by the UNHCR (1997), the 1989 Convention on the Rights of the Child or the Resolution of the European Council of 29 June 1997, recommending the presence of a lawyer at all stages of the asylum process. Even when the minor has a legal representative who is a practising lawyer, the latter may not necessarily be aware of the specific needs and vulnerability of UAMs¹³ and often does not have experience in working with foreign minors. A recently passed law on the provision of specially trained child lawyers seems to be a timely response to this problem.

c) Reception

At present, there is no uniform reception system for UAM asylum seekers. Except for very young children, all other UAM asylum seekers are sent by the dispatching service of the Red Cross and the Federal Ministry of Social Integration to the different reception centres, organised by the Federal Government and the Red Cross. In total there are 30 centres¹⁴ with a total capacity of 5 580 beds, whereas the actual number of asylum seekers residing in these centres amounted to 4 614 on 27 December 2000, i.e., 86.6 per cent of the total capacity. Besides shelter, these centres also provide UAM asylum seekers with assistance to integrate in the centre and in the wider society and organise schooling, and provide basic medical aid.

In terms of schooling, the universal compulsory condition for attending school until the age of 18 also applies to UAM asylum seekers. UAMs are enrolled in regular schools, which obtain additional funding for setting up ‘a reception school year’ for these youngsters. During the reception period of a maximum of one school year, these youngsters have the opportunity to learn the local language and to familiarise themselves with the local educational system. The objective is the smooth insertion into the regular school system of these UAMs after one year or earlier. Among the federal reception centres, Het Klein Kasteeltje/Le Petit Château and the reception centre of Kapellen have received a considerable number of UAMs. At Het Klein Kasteeltje/Le Petit Château last year, a special section for UAMs was set up to meet the needs and demands of UAMs.

¹¹ Report of the Internal and Administrative Affairs Committee on the evaluation of the 15 December 1980 law; Burnet 2000; Lammerant 2000.

¹² Source: Van Coillie, personal communication.

¹³ Burnet 2000.

¹⁴ Reception Centres in Belgium: Argon, Bevingen, Charleroi, Ekeren, Florennes, Kapellen, Het Klein Kasteeltje/Le Petit Château, O.C.IV., C.I.R.E., Erezée, Rixensart, Sugny, Virton, Fraipont, Hastière, Nonceveux, Rendeux, Yvoir, Alesberg, Antwerp Left Bank, Bruges, De Foyer, Deinze, Foyer Selah, Lanaken, Lint, Menen, Overpelt, Steenokkerzeel and Wingene.

Reception at The Kapellen Centre

The reception centre of Kapellen, established in 1997, set up a special team for UAMs in September 1999. The following data were obtained during the first week of January 2001¹⁵. In total, 304 UAMs were received in this centre between 1997 and December 2000. 262 UAMs have left the centre while 42 are still residing there. Of the UAMs who have left the centre, the gender ratio is 220 boys to 42 girls. A comparison between the adults and UAM asylum seekers who have left the centre shows that generally the centre has more information about the movements of adults than those of UAMs. Among the current population of 42 minors, the male/female ratio is 32 boys to 10 girls. In terms of age, most of them are between 15 and 17.5 years old. Most originate from African countries, Eastern Europe and quite a few from Afghanistan. At present, there are 7 boys from Afghanistan. In terms of support and assistance in the centre, at the moment, there is about 1 social worker for every 10 UAMs. There are 4 specialised staff members working in the UAM section. Each is in charge of one of the following tasks: organisation of activities, placement, educational matters and issues concerning the asylum procedure. The tasks are not divided along geographical lines. These social workers have formal training in disciplines such as criminology, psychology, education, etc., which enables them to deal with minors in crisis. The schooling of the UAMs does not encounter any major problems. The UAMs attend three different schools but are all enrolled in the reception programme of their respective schools. Every week, the social workers check the school attendance of the UAMs in co-operation with the schools. School attendance is generally regular. These minors do not seem to encounter learning problems at school since most of them obtain very good academic results.

Despite the good intentions of the actors in the field such as the social workers at the reception centres and the general political will to protect and assist UAMs in general, the current reception policy for UAMs is far from being adequate or comprehensive. The shortcomings of the policy are multiple: insufficient specialised staff to provide an adequate, potential-enhancing and viable reception of UAMs, the non-co-operation of certain schools, the lack of a school programme which achieves a balance between integration in the host society and a possible return to the country of origin, etc. With regard to the first point, at the moment, due to the shortage of personnel, minors do not receive sufficient individual counselling. At present, consultations take place in the reception hall of the centre on an ad hoc basis. Minors are always welcome for a chat in the reception hall of the centre after dinner. Staff members also keep a close eye on the individual conditions of every minor. Yet the current organisation of this section is not deemed sufficient to cope with the needs of these young people. Systematic consultation would improve the quality of the reception significantly. In order to do so, more staff members are required. There are also plans to set up a separate wing for UAMs, where the rooms will be more spacious, more comfortable and adapted to the needs of adolescents. At the moment, efforts are being made to place the minors in one building although UAM girls are still disbursed throughout the different buildings of the centre among adult asylum seekers.

d) Return

In theory, the outcome of a negative decision means that the minor has to leave the territory or, according to Article 118 of the 8 October 1981 Royal Decree, ‘the order to leave is replaced by an order to be accompanied’. In practice, minors below the age of 16 remain in the country. Children under the age of 12 years are issued with an identity document, which allows them to be registered as aliens. Minors above the age of 12 receive a BIVR or a certificate of registration in the Aliens’

¹⁵ Source: personal communication from the officer responsible for the reception centre’s UAM Unit.

register, a document renewable on an annual basis. The status of most of the minors is regularised when they reach the age of 18, while that of others within the same age group is regularised immediately. As for those in the 16-18 age group, the Aliens Office, responsible for the implementation of the return process, considers this group as adults for the purpose of return. Moreover, despite the fact that the official adult age is fixed at 18 years, minors who are still in the asylum procedure when they reach adulthood are considered as adults. Conversely, the refugee status, granted prior to reaching adulthood, is not affected by the fact that the minor attains adulthood during the refugee procedure.

In sum, there are no fixed criteria with regard to return. Return is the exception rather than the rule, and in the case of actual return, the procedure is conducted on a case-by-case basis and through an escorted return.

2.2.2 UAMs in an irregular administrative situation

a) Admission and determination procedures

The category of ‘UAMs in an irregular administrative situation’ comprises a heterogeneous group of minors, which encompasses all foreign minors, who do not fall under the status of unaccompanied minor asylum seeker. There is no specific legal status for UAMs in an irregular administrative situation or UAM non-asylum seekers.

Prior to the establishment of the UAM Unit at the Aliens Office in December 1998, UAMs in an irregular administrative situation received the same treatment as adults in the same situation. Yet because of the status as minors, the order to leave the country was never issued. Moreover, they were (ideally) not placed in closed centres for adult illegal foreigners, given their age and vulnerability. However, according to the Aliens Office, there are a ‘few’ UAMs, comprising two groups of minors, who are still in closed centres¹⁶. The first group consists of youngsters who pretended to be minors but who were in fact found to be adults after an age assessment. The second group was placed in a closed centre for a period of one week or sometimes longer, before being placed in an institution. These UAMs in an irregular administrative situation, due to their young age, legally fall under the responsibility of the youth services at the government level of the Communities. The legislation does not differentiate between alien and Belgian minors. Generally, ad hoc measures were taken in co-operation with the Youth Tribunal or other authorities. The establishment of the special unit for UAM matters at the Aliens Office was prompted by the extremely vulnerable position of these minors and their steadily increasing numbers. The main tasks of this unit are:

- 1) centralisation of all the UAM files and the drawing up and maintenance of statistical data on UAMs;
- 2) co-ordination of the placement of UAMs in an irregular administrative situation and UAM asylum seekers under the age of 15;
- 3) tracing, home assessment and follow-up of UAMs;
- 4) administrative follow-up including issuance of temporary residence permits;
- 5) decision-making on the residence status of UAMs;
- 6) setting up of different information channels and participation in national and international forums relating to the issue of UAMs;
- 7) exchange of information with police services and tribunals and retracing networks;

¹⁶ Newsletter Platform ‘Minors in Exile’, December 2000

8) informing all concerned parties if possible.

In terms of residence status, every UAM in an irregular administrative situation receives an 'arrival declaration' document, which is valid for three months and is renewable. In case return is deemed impossible, then a temporary BIVR or certificate of registration on the aliens register is issued. After two years, a permanent certificate replaces the temporary one. When the minor reaches the age of 18, the chances of his/her situation being regularised are high.

The ad hoc basis of this unit has advantages in the sense that it can examine the case of each minor individually and act according to the latter's best interests. However, in practice, many minors are not supported and are left in a legal and social limbo as a result of, for instance, a shortage of reception facilities and other deficiencies in the procedure.

b) Guardianship

The inadequately functioning system of legal representation and guardianship applies to both UAM asylum seekers and UAMs in an irregular administrative situation.

c) Reception

The emergence of UAMs in an irregular administrative situation has challenged the reception policy, hitherto designed for asylum seekers, or more precisely, for adult asylum seekers. Yet the presence of UAMs, both asylum seekers and non-asylum seekers, has prompted the debate on adequate and harmonised reception policies. As mentioned earlier, there is an informal consensus, which is in the process of being formalised, between the reception centres, both Red Cross and federal, to include all UAM asylum seekers from January 2001 onwards. The placement of asylum seekers, adults and minors alike, is part of the new asylum policy. The Belgian government wants to streamline the asylum processing system in order to reduce the number of applications. There is also a shift from cash to in kind assistance, plus 200 Belgian Francs (4.40 USD) a week. The government wants to deal with asylum applications within 21 days of their being filed and place applicants in reception centres until a decision is made. The government has been pursuing a two-pronged strategy on immigration since it took office in 1999, combining tougher controls with more integration assistance. The remainder of the UAMs in an irregular administrative situation will be placed by the unit for UAMs at the Aliens Office in co-operation with the services responsible for the placement of young people (see above).

UAMs in an irregular administrative situation can be placed in different institutions: regular youth institutions but also in special reception centres for UAMs in an irregular administrative situation such as 't Huis in Aalst. Discussions are under way to set up more specialised reception centres for UAMs in an irregular administrative situation, given 't Huis's good working practices (see *infra*). In 2001, a new centre for UAMs in an irregular administrative situation will be set up in Brussels. In the third version of the draft on the 'Receiving structures for unaccompanied minors in Flanders' of 26/06/2000, the best interests of the child and the right to protection and assistance are taken as basic guidelines. The reception centre 't Huis serves as a model. The basic principles for the reception of UAMs are: to serve the best interests of the child and to guarantee the right to protection and assistance, and create legal guardianship to safeguard the rights and best interests of these minors. The French-speaking Community is willing to set up similar initiatives but is requesting additional funding from the Federal Government¹⁷.

¹⁷ Newsletter Platform 'Minors in Exile', 12/2000.

However, given the shortage of adequate reception centres, in practice, some UAMs in an irregular administrative situation are sent by the Youth Tribunal to the closed centre in Mol, where these youngsters do not belong and which contravenes the guidelines stipulated in the Convention on the Rights of the Child and the UNHCR guidelines. Other UAMs are sheltered in the different reception centres for adult asylum seekers with few formalised facilities and specialised staff to support them.

d) Return

There is no uniform return policy relating to UAMs, asylum seekers or non-asylum seekers. The decision is made on a case-by-case basis. Although return might be in the best interests of the child, effective identification and tracing procedures are important for all aspects of the procedure, particularly with regard to return. Given the ineffectiveness of the existing mechanism to retrace the parents, most UAMs, both asylum seekers and non-asylum seekers, are not returned. Concerning UAMs in an irregular administrative situation, an advisor of the UAMs Unit at the Aliens Office claims that ‘in practice, this means that we very seldom send the children back to their country of origin because we are not sure whether they will be placed with the right people’¹⁸. The return rate at ‘t Huis, the hitherto model reception shelter for UAMs in an irregular administrative situation, indicates that out of a total of 68 youngsters who have left the centre, only 9 have returned to their country of origin, i.e., 4 to Albania, 1 to the Czech Republic, 1 to Morocco, 1 to Romania and 2 to Kazakhstan.

Case 1

T.’s return to her home country Albania received broad media coverage. She returned in December 1999, when she had just reached the age of 18. The police found her in Antwerp’s red light district. It was T.’s own decision to return. She was accompanied by the Director of ‘t Huis, where she had stayed for a while. She is the first victim of sexual exploitation to return to her native village, some 60 km from the capital Tirana. Her family was contacted and several social organisations in Albania promised to look after her well-being. The return took place in co-operation with IOM.

2.2.3 Co-operation or the lack of it between the relevant authorities

Despite the good intentions and the recognition of the minor status of UAMs, there is a lack of coherence in policies and co-operation between the relevant authorities. The specific policies, on the one hand, the co-ordination of decisions on stay and asylum and, on the other hand, youth assistance measures, are not the same. This creates many inconsistencies and uncertainties for UAMs, both in a regular and irregular administrative situation. In theory, youth protection authorities in charge of all matters relating to long-term assistance and integration programmes at Community level (Flemish, French-speaking and German-speaking Communities) have less powers than immigration authorities, e.g., the Federal Ministry of Internal Affairs, the Youth Tribunal within the Federal Ministry of Justice and the Federal Ministry of Social Integration.

In practice, if the judge decides to place a child, this being a judicial decision, it takes precedence over an administrative one. In case of two administrative decisions, the decision of the immigration authorities takes precedence, although the youth authorities may not necessarily inform the

¹⁸ Van Coillie, in *De Morgen* of 18/11/2000.

immigration authorities about the decisions they have taken with regard to minors. The lack of co-ordination between the relevant authorities remains a problem, which needs to be urgently redressed and harmonised in order to have a more efficient and effective policy on UAMs. Another obstacle to the formalisation of the current ad hoc practices concerning UAMs in reception, long-term assistance and integration programmes is the fear that a too favourable status might create a pull factor. Another problem is the distance separating UAMs and ‘frontline’ officials, such as the police, social workers in the reception centres, etc., who encounter difficulties in executing some policies, a situation which in turn engenders a negative outcome for UAMs. They are divided between executing the law and being concerned with the specific vulnerable position of adult and minor asylum seekers and non-asylum seekers.

2.3 (FRAGMENTED) STATISTICS ON UAMS

2.3.1 Statistics on Adult and Minor Asylum Seekers provided by the General Commission for Refugees and Stateless Persons

Table 1.1: Evolution of the total number of adult asylum seekers between 1987 and 11/2000

Over the 1987-2000 period, there was a more than six-fold increase in terms of asylum requests in Belgium whereby, claims went up from 6 000 in 1987 to 38 051 in 2000 (excluding December). The steady increase peaked in 1993 and declined in the following years until a new peak was reached in 1998. The growing trend was sustained in the following two years. It is believed that an increase in the number of adult asylum seekers from a specific country is followed by an increase in the number of UAMs from the same country.

Table 1.2: Number of asylum claims per month in 2000 (January-November)

A month-by-month breakdown of applications for asylum in 2000 demonstrates that the number of asylum applications relatively stabilised at around 3 000, and rose sharply after August to more than 4 400 (or more).

Table 2: Evolution of the total number of UAM asylum seekers between 1995 and 9/2000

Statistics covering the 1995-2000 period indicate that applications for asylum by UAMs were on the increase. In 1995, there was a total of 820 applications, as opposed to 2 016 in 1999 and 1 295 in 2000. This means that the number of applications increased 2.5 times between 1995 and 1999. It should be noted that the figures for 2000 do not include October, November and December. The figures for these three months are not yet available. In terms of gender, girls make up at least 50% or more of the total number of applicants for asylum, a percentage that is relatively high in comparison with the general trend, where UAM girls make up 1/3 of UAMs. From an overall perspective, this might have to do with the involvement of UAM girls in trafficking in human beings (THB) for sexual purposes in Belgium, a favoured destination. However, as a receiving country for economic exploitation, for which mostly boys are lured, Belgium seems less attractive than other European countries such as Great Britain, the former serving merely as a transit country.

Table 3.1: Top Ten Countries of Origin of UAM Asylum Seekers in 1995

In 1995, the top ten countries of origin were in descending order: Zaire (now the Democratic Republic of Congo – DRC), Rwanda, Romania, Turkey, Sierra Leone, Burundi, Guinea, Macedonia and Bosnia. It is worth noting that in the case of the DRC/Zaire, Rwanda and Burundi there are more UAM girls filing for asylum than boys. However, these girls are not necessarily victims of trafficking in human beings. Their arrival in Belgium is mostly related to child smuggling and/or illegal reunification. In the first case, parents thinking that their children are better off living in a Western country entrust their children with an ‘aunt’, ‘uncle’, or any other member of the extended family or network, leaving for the West¹⁹. They also use Belgium as a transit country and then move on to other European countries. In the case of illegal family reunification, these children join a parent illegally staying in Belgium or another European country. Also, the adult family member, who the children aspire to join, is not necessarily a close family member. Among UAM fieldworkers, it is believed that UAMs under the age of 14 never travel completely alone, but are accompanied by a brother or sister and are usually on transit to Great Britain, France or Germany to join members of the (extended) family and/or social network. They are categorised as UAM within the framework of the formal definition of UAMs.

Table 3.2: Top Ten Countries of Origin of UAM Asylum Seekers in 1996

In 1996, the trend described above continued. The first five countries of origin of UAM asylum seekers were African, notably the DRC/Zaire, Rwanda, Guinea, Liberia and Burundi. The majority of applicants from the top five countries, except for Guinea, were girls. Also noteworthy is the fact that the actual number of applications increased in comparison with 1995. As argued above, the high percentage of girls is related to smuggling in human beings by a member of the extended family. In the worst case scenario, however, these very young girls are trafficked for private sexual abuse, since so far no data support the hypothesis that they work in mainstream prostitution.

Table 3.3: Top Ten Countries of Origin of UAM Asylum Seekers in 1997

The trend that had been observed in 1995 and 1996 continued in 1997. Here, the country producing the highest number of applicants was no longer the DRC/Zaire but Rwanda. Also, there were more applications by girls than boys among African applicants, except for those from Guinea and Sierra Leone. Again, in absolute terms, the number of applicants increased in 1997 in comparison with previous years. It is believed that many Rwandan girls, having suffered rape and other abuses, often found refuge in Rwandan monasteries and other religious institutions, which arranged their journey to Europe. The rate of recognition of these extremely traumatised girls as refugees is high and they need plenty of care and support to overcome their angst and trauma. In contrast to the high rate of recognition with regard to the Rwandan group, the reverse can be said of Sierra Leonean nationals. The divergence in the rate of recognition between these two countries is hard to understand given the similar conflict situations in the two countries²⁰.

¹⁹ Source: Isabelle Lammerant and Solange Cluydts: personal communication.

²⁰ Source: Joan Ramakers: personal communication.

Table 3.4: Top Ten Countries of Origin of UAM Asylum Seekers in 1998

The trend described above continued in 1998. During this year, Rwandans still accounted for the highest number of asylum applications among UAMs. As in previous years, a higher number of Rwandan girls than boys filed for asylum.

Kosovo suddenly moved from 7th position in 1996 with 69 applications for asylum to second position in 1998 with 321 applications, i.e., a more than 4.5 times increase in the number of applications. It is believed that Albanian gangs recruit Albanian girls from refugee camps in Kosovo to work in the prostitution sector in Western Europe through deception or force. All interviewees confirmed that violent methods are used by Albanian gangs to force these girls into prostitution. Moreover, these gangs often involve a close family member, who forces his/her female minor/adult relatives into prostitution. The girls are trafficked to different European countries including Italy, France, Belgium, the Netherlands, etc. The strategy of the gangs is to break the morale of these girls, through rape, beatings and other forms of physical abuse so they lose their strength, resistance, self-esteem and self-confidence. Subsequently, the girls become totally dependent on the gangs and give up the idea of escape from prostitution. The other four countries in the top 5 in 1998 were, once again, African, notably Rwanda, the DRC/Zaire, Guinea and Burundi. Turkey no longer featured in this top ten ranking in 1998.

Table 3.5: Top Ten Countries of Origin of UAM Asylum Seekers in 1999

The situation relating to the first top five countries was more varied in 1999 than in previous years, although with a marginal difference, Kosovo overtook Rwanda with regard to the number of applications for asylum by UAMs, with 332 applications, compared with 326 previously. Yugoslavia ranked number three with 227 applications.

Table 3.6: Top Ten Countries of Origin of UAM Asylum Seekers in 2000 (until 31/9/00)

Kosovo fell back to 8th position with merely 38 applications. The sharp decrease has to do with the fact that the practices of recruitment of Albanian gangs have become widely known. This has led to the diversification of recruitment strategies. These gangs search for UAM girls in other countries including Moldavia, Ukraine, etc. The office of the Public Prosecutor for Brussels recently discovered that close to the Midi/Zuid train station, Albanian gangs extort money from Brazilian girl/women prostitutes already working in the area²¹. The first five countries in 2000 included Rwanda, Sierra Leone, the DRC/Zaire, Guinea and Albania. The trend whereby more girls applied for asylum than boys in the case of Rwanda, the DRC/Zaire and Burundi continued. It is worth noting that the 32 applications by nationals of Afghanistan, the 'newcomer', all concerned boys but one. Social workers claim that most of these boys come from fairly well off families in Afghanistan and are smuggled into Europe with Great Britain as the country of destination. Unlike most UAM boys who are economically and some sexually exploited, these boys are sent to Great Britain to study since they cannot do so in their home country.

Table 4: Age Breakdown of UAM Asylum Seekers during the 1988-1999 Period in Absolute Figures

An analysis of the total figures relating to all UAMs shows that most of them are within the 16-18 age group, followed by those in the 10-16 age group. Exceptions to the general trend are the figures

²¹ Source: Solange Cluydts: personal communication.

relating to UAMs from the DRC/Zaire and Rwanda, where there are more minors in the 10-16 age group than in the 16-18 one. The age factor, once again, supports the argument that most of the Congolese/Zairian and Rwandan UAM girls are not necessarily victims of THB.

Table 5: Age Breakdown of UAM Asylum Seekers during the 1988-1999 Period in Percentage

Except for UAMs from the DRC/Zaire, Rwanda and Burundi, the majority of UAM asylum seekers, 48% of the total were within the 16-18 age group. This evidence supports the hypothesis that Belgium is the target destination for UAM girls as victims of THB. The sending countries include Kosovo, Romania, Guinea, Sierra Leone, Yugoslavia and Angola, data that corroborate the (qualitative) information obtained from the different interviewees. In the case of UAMs from Turkey, it is most likely a question of the minors being involved in economic exploitation, as confirmed by the different respondents.

The second largest age group comprised children between the ages of 10 and 16 and represented 23% of the total number of UAMs. In the case of the DRC/Zaire, 37 % of UAM asylum seekers were in the 10-16 age group. These children are sometimes accompanied by a member of the extended family or by someone from the wider social-cultural network. In some cases, the children are smuggled into Belgium to join family members. Besides illegal family reunification, other smuggled children are usually on transit to other European countries²². Moreover, UAMs above 18 years of age feature prominently in the case of Rwanda, Guinea, Sierra Leone and Burundi, i.e., respectively 34%, 56%, 49% and 46% of their own national total. Furthermore, the percentage of children below the age of 5 is significantly higher in the case of the DRC/Zaire (9.6%) and Angola (7.6%) than the overall percentage (4.1%).

Table 6: Result of the Asylum Procedure (Applications between 1/2/1988 and 31/12/1999) relating to UAM Asylum Seekers on 31/7/2000 in Percentage

Over the 1/2/1988-31/12/1999 period, there was a very low rate of positive decisions vis-à-vis UAM asylum applicants from Kosovo, notably 4.3 %, followed by Romania, Guinea and Yugoslavia, with a 2% rate of recognition and Sierra Leone with a mere 1.6%. The low rate of recognition in the case of Sierra Leone is enigmatic, given the level of violence and conflict in that country. The case of Kosovo underlines the precarious situation of UAM girls. These girls are manipulated and dominated by traffickers in human beings with the intention of making money out of them. The traffickers exploit the asylum law for their own profit making schemes in collaboration with local dishonest actors e.g., lawyers, brothel owners, etc. In the event the application for asylum is rejected, and given the inadequate return programmes, the girls are forced to work illegally, which makes them even more vulnerable to abuse. According to the 1998 annual report of the Centre for Equal Opportunities and the Fight against Racism, over the 1/2/1988-31/12/1999 period, the majority of female asylum seekers were from Albania, Russia and other Eastern countries, rather than from West Africa (Nigeria), as was the case previously. In particular, female asylum applicants from Russia, Kosovo or Albania have caught the attention of the General Commission for Refugees and Stateless Persons. The applicants from Eastern Europe pretend to have arrived alone in Belgium, and on the whole, do not have any documents. In general, they employ the services of the same lawyer. They neither stay in a reception centre nor claim financial assistance from the local offices for social assistance. During the interview at the General

²² Annual report of the Centre for Equal Opportunities and the Fight against Racism, March 1998: 44.

Commission, they appear to be extremely fatigued, both physically and mentally. Many of them appear very young despite their claim to be adults. However, some admit their real age during the interview. In other instances, age assessment reveals their real age.

Applications for asylum with a relatively high positive outcome, but nonetheless smaller than the negative outcome are by nationals of the DRC/Zaire (35%), Turkey (43%) and Angola (30%). Finally, applicants from Rwanda and Burundi have more positive than negative decisions, i.e., respectively 49% and 55.5%. This is related to the conflict situation in those countries.

2.3.2 Data from the UAM Unit at the Aliens Office

Table 7: Number and Nationality of UAM Asylum Seekers

According to the statistics of the UAM Unit at the Aliens Office, in 1999, the largest group of UAM asylum seekers came from Kosovo, followed by those from Rwanda, the DRC/Zaire, Sierra Leone, Romania, India, Angola and Algeria. It is worth noting that there is a discrepancy between information from the Aliens Office and from the General Commission both in terms of numbers and in some cases nationality.

Table 8: Number and Nationality of UAM Non-Asylum Seekers

It is difficult to put a figure on the number of UAM non-asylum seekers or UAMs in an irregular administrative situation because there are very few sources providing the necessary data. All data are by definition underrated, given the clandestine nature of this group of asylum seekers. When UAMs in an irregular administrative situation are intercepted, their files are sent to the UAM Unit at the Aliens Office for further examination. Once again, the largest group consists of minors from Kosovo, followed by those from Serbia, Afghanistan, Albania, Algeria, China, the DRC/Zaire, Romania, Rwanda, Guinea, Cape Verde, etc. A comparison between this group of nationalities and the top ten nationalities of UAM asylum seekers shows that nationals of certain countries do not apply for asylum for reasons such a low rate of recognition or because they are on transit to other EU countries, in which case they become migrants in an irregular administrative situation. The latter group comprises nationals of Afghanistan, China and Cape Verde. The relatively significant number of applicants for asylum from Afghanistan only started to appear in the asylum statistics of the top ten nationalities in 2000, according to General Commission data. According to the Aliens Office's statistics, already by 1999, a significant proportion of the UAMs in an irregular administrative situation were from Afghanistan.

China is not among the top ten countries of origin of asylum seekers. This is in sharp contrast with the Chinese migrant situation in Great Britain, one of the top destinations for Chinese people from the region of Fujian. Although these data do not provide a male/female breakdown, different social workers indicate that among the Chinese UAMs, there are more boys than girls. This situation is very different from that in the Netherlands. Although some of the Chinese UAM girls have been sexually abused during the different phases of their journey, there are no available data indicating that these girls are systematically sexually abused as victims of THB in a similar way as Eastern European girls are. In a personal interview with a lawyer in Great Britain, specialising in Chinese asylum seekers from Fujian to Great Britain, the lawyer indicated that the average Chinese asylum seeker is male and aged 25.

Table 9: Numbers and Region of Origin of UAM Asylum Seekers and UAM Non-Asylum Seekers

A comparison of the two groups in terms of numbers and region of origin demonstrates clearly that African countries, the former USSR, the Russian Federation and Turkey produce far more asylum seekers than non-asylum seekers. For the Balkans and North African countries, the ratio of asylum seekers and non-asylum seekers is more or less 2 to 1. For the Middle East, the ratio is more or less equal.

3. TRAFFICKING ISSUES

3.1 GENERAL

In December 2000, more than 124 of the UN's 180 member states signed the Convention on the Fight against Transnational Crime in Palermo, Italy. 80 countries signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and 79 countries signed the Protocol on the Fight against the Smuggling of Migrants by Land, Sea and Air. Kofi Annan, the UN Secretary-General said: 'The trafficking of persons, especially women and children, for forced and exploitative labour, including for sexual exploitation, is one of the most egregious violations of human rights which the UN now confronts'. Many analysts claim that smuggling in human beings constitutes the fastest growing criminal market in the world. There is also consensus on the view that 'Third World sweat shops' are moving to Europe along with 'Third World migrants'. *The New York Times* reported on 25 December 2000 that illegal immigration into Europe from the South as well from the East is rising sharply: some 500 000 migrants arrived in 2000, up from 40 000 in 1993. Despite the fact that these figures are only rough estimates, it is clear that Europe is now a major operating arena for traffickers. Trafficking, which may imply clandestine entry and/or presentation of fake documents, is part of the general process of illegal migration, defying restrictive immigration policies of most Western industrial countries.

3.2 DEFINITION

3.2.1 IOM definition

For IOM, trafficking occurs when:

- a migrant is illicitly engaged (recruited, kidnapped, sold, etc.) and/or moved, either within national or across national boundaries;
- intermediaries (traffickers) during any part of this process obtain economic or other profit by means of deception, coercion and/or other forms of exploitation under conditions that violate the fundamental human rights of migrants (Trafficking in Migrants: IOM Policy and Responses: June 1999).

The IOM definition, which covers various forms of trafficking, has proved to be highly valid. The efforts of IOM have led to the adoption of the UN Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention on Transnational Organised Crime.

This Protocol stipulates that trafficking in persons shall mean:

- the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of a position of vulnerability or of the giving and receiving of

payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation (Advanced copy of the Protocol).

It is at present considered as the most authoritative and widely recognised definition. Generally, the services offered by traffickers include forged documents, transport and accommodation during transit. Traffickers usually have sophisticated counterfeiting workshops, where the necessary documents, e.g., visas and official stamps, can be forged or falsified, using state-of-the-art equipment. Traffickers often have access to considerable sums of money, which they use for bribery or to respond to the toughening immigration checks in different receiving countries, e.g., by switching swiftly to alternative routes.

3.2.2 Usage of the terms ‘smuggling in human beings’ and ‘trafficking in human beings’ in Belgium

Awareness of the seriousness of trafficking in human beings, especially of women, rose acutely in Belgium after the publication of a book on this subject by the journalist Chris De Stoop. In his book: ‘They are so cute, sir’ (1992), De Stoop discusses the exploitation of Filipino female prostitutes. The late King of the Belgians, King Baudouin, met with some of the victims of THB. In addition, a Parliamentary Committee was established and resulted in the 1994 report on trafficking in human beings.

In general, the data on the trafficking in women, let alone minors, are very sparse. The scarcity of information on trafficking in human beings seems to suggest that there have been several waves of trafficked women to Europe from different sending countries: the first wave consisted of Asian women (mostly Thai and Filipino), the second of Latin Americans (mostly Dominican and Colombian), the third of Africans (mostly Ghanaian and Nigerian) and the most recent wave, of women from Eastern Europe²³. Trafficking of African and Eastern European women has continued on a high scale.

There seems to be a trend whereby the age of female prostitutes is decreasing. This perhaps explains the high numbers of girls and boys in the 16-18 age group. Given the strict checks on minors in prostitution and the strict law enforcement in some Belgian cities, e.g., Brussels, there might be a shift from visible to invisible prostitution in order to evade these checks. Invisible prostitution consists of prostitution in private houses and other private, non-public places²⁴. There is general consensus that under-age girls working in prostitution should not be tolerated. However, in practice, the law enforcement practices differ from city to city.

Although trafficking in human beings for sexual exploitation is mostly linked to women, minors and adults alike, male prostitution (men and boys) does exist. Male sex workers can be divided into different categories. Socially, there are three levels: escort services, street and bar prostitution. Adzon is the only organisation, which provides assistance exclusively to male prostitutes²⁵. This organisation points out the precarious situation of these prostitutes, especially boys. Since 1992, Adzon has been active in supporting youngsters involved in street prostitution in Brussels, the majority of whom are boys. They are often homeless, come from poor and destitute families and have spent some time in youth institutions. Their age ranges from 15 to 25 years. In 1996, Adzon worked mostly with minors in the 12-15 age group, mostly from the former Yugoslavia. Since

²³ IOM 1995.

²⁴ Source: personal communication from Van der Sipt.

²⁵ See <http://www.amoc-dhv.org/enmp/reportbelgium.htm>.

1993, boys from Eastern Europe, including among others, Romanians and Bulgarians, have become increasingly prominent. There is also evidence that they are active in the prostitution sector in other European countries. On the basis of this fact, it can be deduced that they form a highly mobile group. The frequency of their prostitution activities varies with some of the boys being active on a permanent basis. Besides this core group, there are others who see street prostitution as a temporary means of acquiring financial gains. Finally, there are boys who engage just once in street prostitution for a number of reasons in particular, those experiencing financial problems. Others see it as a 'vacation job' to make more pocket money. As indicated earlier, in contrast to minor and adult female prostitutes, who rely on a pimp, the boys work for themselves. Another development in the way boy prostitutes operate is that in the past few years, there has been a change in the way clients are recruited. Instead of street prostitution, most boys now meet their clients in local cafés. This is linked to increased police checks on the streets²⁶.

In 1997, it was disclosed that girls and boys from the former USSR are involved in a prostitution network, which has ties with the Netherlands²⁷.

Case 2

In 1997, boys from the former USSR applied for asylum on the grounds of discrimination because of their Jewish background. They live in Antwerp and tend to have ties with Amsterdam. The authorities believe that there is a high possibility that these are involved in male prostitution since they do not give much information on the migration journey and their place of origin. They pretend not to know each other and yet often, groups of ten or so live in the same house.

Source: Officer in charge of minors, General Commission for Refugees and Stateless Persons

Case 3

In September 2000, there was a sudden increase in the number of smartly dressed Albanian boys in the 13-14 age group in Belgium. It can be safely presumed that these boys were being exploited sexually.

Source: Officer at the Dispatching service, the Red Cross

Male prostitution, especially of boys nearing the age of 18, appears to be mostly voluntary. This, according to some field workers, makes it more difficult to assess the phenomenon in terms of scale and degree of exploitation. In Brussels, mostly Eastern European boys engage in prostitution²⁸.

As such, the term 'trafficking in human beings' is used instead of 'trafficking in women' in official documents, as is the case in other countries such as the Netherlands.

²⁶ Annual report of the Centre for Equal Opportunities and the Fight against Racism, 1997:105-106.

²⁷ Annual report of the Centre for Equal Opportunities and against Racism, 1998: 19.

²⁸ Source: personal communication from the Public Prosecutor for Brussels.

Article 11, Paragraph 3 of the 13 April 1995 law, later refined and clarified in the Royal Decree of 16 June 1995, relating to the conditions for combating trafficking in human beings and child pornography, stipulates that the Centre for Equal Opportunities and the Fight against Racism shall produce an annual public and independent report on the development and the results of the fight against international trafficking in human beings and submit it to the Federal Government.

In the Centre's first report, the two terms: 'trafficking in human beings' and 'smuggling in human beings' are clarified²⁹. 'Trafficking in human beings' as discussed in the report issued by the Parliamentary Committee on trafficking in human beings involves the following elements. Firstly, there is exploitation of the desire of migrants from less wealthy countries to start a new life in the West. Secondly, this exploitation implies that migrants are, in varying degrees, forced, lured or deceived with false promises into exploitation. Thirdly, trafficked women are often the victims of sexual exploitation. Whether this is based on free will or not, the status of 'victim' refers to the dependency and exploitation of the trafficked migrant. Dependency involves a variety of asymmetrical relationships resulting from the migrant's lack of knowledge of the language(s) of the receiving country, debts, financial pressure from relatives in the country of origin, illegal stay, fear of the police, etc. Finally, the objective of the traffickers is to benefit from the lucrative nature of trafficking in human beings. It is difficult to gather accurate data on the scope of trafficking in human beings, given the clandestine nature of these activities. The number of convictions for trafficking in human beings represents only a small fragment of the entire phenomenon.

The term 'smuggling in human beings' is also frequently used and refers to the organised trafficking of migrants who cannot obtain in their country of origin a legal residence permit for the target country. Others are legally or illegally (depending on the legislation of the host country) transported to their target country. Upon arrival in their target country, such migrants have relative freedom to organise their stay. The traffickers/smugglers only organise the journey from the country of origin to the host country, in most cases via other countries. The migrants pay a fee in return for the services provided by the traffickers/smugglers.

In the case of trafficking in human beings, the traffickers are not only in charge of organising the journey but also exploit the migrants in their host country for financial gain. In reality, it is often difficult to differentiate between trafficking and smuggling because smuggling is often an element in the trafficking process. From the perspective of the migrant especially, the distinction becomes irrelevant in concrete situations. Theoretically, smuggling in human beings involves a certain degree of 'freedom of choice' and the absence of exploitation of the migrant in the country of origin, during the journey and in the host country. However, the precarious situation of most of these migrants in their home country tends to suggest that they do not act with free will and self-determination. Moreover, during the journey and in the host country, they are highly vulnerable to exploitation for a number of reasons. Firstly, their illegal status makes them very vulnerable during the journey and after arrival in the host country. Very few migrants are smuggled directly from the country of origin to the receiving country. Many stop in one or more other countries. Before reaching their destination, migrants often use up their financial resources and are forced to look for opportunities to make money.

In spite of paying a smuggler, the migrant is not certain of actually reaching the target country, due to unscrupulous racketeers, accidents, such as the transporting ship capsizing or natural disasters. In some cases, migrants may be thrown overboard if law enforcement agents are spotted³⁰. Since 1993,

²⁹ Centre for Equal Opportunities and the Fight against Racism, 1996: 5-8.

³⁰ Doomernik 2000.

more than 2 000 migrants are reported to have perished while trying to enter Europe³¹. In other words, persons attempting to enter a target country with the support of a smuggling organisation are subject to continued exploitation due to the extremely high sums of money demanded by smugglers. Despite overlapping between smuggling and trafficking in human beings, some field workers nonetheless stick to the term ‘smuggling in human beings’ rather than ‘trafficking in human beings’. However, in both cases the exploitative nature is explicitly recognised and migrants, ‘smuggled’ or ‘trafficked’, are seen as victims, treated as ‘commodities’ by traffickers/smugglers, solely concerned with making huge financial profits.

3.3. EXPLOITATION

3.3.1 General

Despite the theoretical distinction between smuggling and trafficking in human beings, both practices involve exploitation of migrants, who need to be seen as victims rather than lawbreakers. Undoubtedly, trafficking in human beings involves a number of human rights issues. The migrants involved belong to vulnerable groups such as minors and women. Secondly, recruitment by traffickers frequently involves the use of force or deception, promises of well-paying jobs and marriage. Exploitation is usually sexual and/or economic. Although trafficking in human beings is mostly linked to the sexual exploitation of women and minors, it is clear, as indicated earlier, that boys are now also being trafficked for the same purpose. Unfortunately, given the voluntary basis of male prostitution, it is difficult to determine the scale and degree of exploitation of this practice. Moreover, trafficking in human being leading to exploitation is not exclusively sexual. In many cases men, women, boys, girls and even elderly people are being trafficked for economic exploitation. Notwithstanding the frequency and urgency of the issue of sexual exploitation, where a person is exploited physically, mentally and emotionally, economic exploitation in its many forms also gravely violates a whole range of human rights.

Generally speaking, there are no systematic data available on victims of exploitation, both sexual and mostly economic. The only way to determine the migrant’s project, journey, financial cost, treatment, work conditions, etc., is on the basis of the declarations made by victims of THB. This evidently concerns only a small part of the reality. However, analysis of data related to asylum and the number of intercepted illegal minors indicates that the number of mostly UAM girls from Eastern Europe and West Africa (especially Nigeria), who are victims of THB, has increased. Matching the 16-18 age group with the nationalities of UAM girls from the two previously mentioned geographical areas also strongly indicates their involvement - voluntary and involuntary - in prostitution. UAM girls in Belgium are mostly involved in sexual exploitation and are often trafficked to other European countries after a while. In contrast, UAM boys are mostly transit migrants to Great Britain and other countries, to work illegally there. There are exceptions to the rule in that there also are indications of boys working in prostitution in the major cities, e.g., Brussels, Antwerp and Ghent. The younger group of Congolese and Rwandan girls consists mostly of smuggled children, who join their families, mostly staying illegally in Belgium or in other European countries. In addition, there are Afghan boys, mostly from relatively well off families in Afghanistan who want to study in Great Britain. Some of them are intercepted in their attempt to cross the channel to Great Britain in a similar way as the economic illegal minor migrants are.

³¹ <http://www.united.non-profit.nl/pages/presa.dlist.htm>

3.3.2 Economic exploitation

Economic exploitation refers to illegal employment, illegal contracting and social fraud. Illegal migrants are exploited in the catering sector, sweat shops, Turkish bakeries, Pakistani night shops and other retail stores, in diplomatic circles as domestic workers, in commercial sports (e.g. football) by agents, as au pairs by host families, etc.

a) Sweat shops and restaurants

The number of Asians in this group, active in the French-speaking part of Belgium, is relatively high. Current Chinese illegal emigration from Fujian and Zhejiang is relatively well documented³². Chinese people comprise a large part of the victims of economic exploitation moving to different parts of the world, including Europe. Most are adult male migrants and arrive as indentured servants, owing 5 000 to 25 000 USD to their smugglers. As these migrants are often unable to pay the steep fees demanded by traffickers, they have to sell their labour to repay their debts by working long hours in Chinese restaurants in Belgium. In other European countries like France and Italy, the migrants work in the sweatshops of the garment industry. Their travel documents are confiscated. Given their illegal status, they do not have the proper residence permit documents. Moreover, they are neither linguistically nor socially integrated in the host country so that the likelihood of seeking help outside the restaurant or sweatshop is quasi nil. At present, the practices of human traffickers are relatively well documented. The economic mechanism in sweat shops operates as follows: a garment that retails at 100 USD is usually bought at 50 USD from a contractor, who has the garment made according to his/her instructions at 10 to 30 USD. Contractors can use sub-contractors and pay them less than 10 USD per finished piece. Most European countries including Belgium do not have joint liability laws that render designers and retailers jointly liable for immigration and labour law violations of agreements with contractors and sub-contractors. Minors are also involved in smuggling in human beings for economic purposes.

Known cases of economic exploitation in the garment industry in Belgium concern Thais and Laotians in Waremme, in French-speaking Belgium³³, Syrians in East Flanders around the city of Ghent³⁴, Turks and Kurds around the Midi/Zuid station in Brussels³⁵.

The owners of a sweatshop in Waremme were the first case of economic exploitation to be convicted on the basis of the 13 April 1995 trafficking in human beings. The sweat shop owners had to pay 120 USD per person and per year of exploitation. Although the penalty is not excessively high, the case set a precedent to the broadening of the interpretation of THB, hitherto confined to sexual exploitation of women and minors.

Among the twelve illegal migrants working in this sweatshop, there was also a Chinese girl. She had been intercepted earlier while working illegally in a Chinese restaurant near Brussels. After her arrest, she was placed at Pag-Asa. However, she escaped and was once again intercepted by the authorities in a sweatshop in Waremme. She was among six other illegal migrants who were referred to Pag-Asa but disappeared once again. She was twice economically exploited. In a letter to

³² Chin 1999; Kwong, 1999.

³³ Source: social worker at Sürya and the 1997 annual report of the Centre for Equal Opportunities and the Fight against Racism.

³⁴ Source: social worker at Pag-Asa.

³⁵ Source: the Public Prosecutor for Brussels.

her younger sister in China, she laments her sad existence and desperate situation in the sweatshop. What follows is an excerpt from her letter³⁶.

Case 4

To my sister Xiao. I'm sorry that I have not written to you for such a long time. I hope you will write to me soon. Xiao, I think you know that I am placed (at Pag-Asa). That could have changed my life but I didn't take that chance. Now I have many regrets... I was in Brussels. I was fed. I had a roof over my head. I could even learn French. I don't know why but I wanted to leave. After my escape I realised that I had left paradise and I have entered hell instead... Now I get up at 8 am everyday, start to work at 8:30 and only finish at 1am. Yesterday I even worked until 2am. We eat here, we sleep here and we work here. In fact I work 16 hours a day. I earn very little. I have the impression that I am working myself to death. I sometimes think I want to put an end to my life. Why have I been so stupid? Xiao, is life still worth living? Xiao, you are the only one who knows about my sad existence. I haven't written to our parents. I don't have the courage to do so. I float around in this world like a leaf on water. I cannot find rest anywhere. The waves are engulfing me... Take care, Xiao. If I could start anew, I wish I could be a student again.

Moreover, most of the intercepted UAMs in an irregular administrative situation on transit are boys and, to a lesser extent, girls aiming to go to Great Britain to work illegally.

Small businesses run by immigrants, e.g., Turkish bakeries and Moroccan grocery shops.

Aside from exploitation by Asians, there are also known cases of economic exploitation in Turkish bakeries and Moroccan retailing shops.

Case 5

In November 1995, the police intercepted a 10-year old undocumented Turkish boy riding a bicycle without lights. It was then discovered that he was brought to Belgium along with four other boys to work in a bakery and in various stores in the city of Ghent. These young workers make less than 2 USD per hour and work for twelve to fourteen hours a day. The owner of this Turkish bakery is a man of Macedonian origin.

Source: *De Morgen*, 8/11/1995

A few weeks later, the social inspection services found a Turkish minor without documents in a bakery run by Turks. He came to Belgium by land and did different kinds of odd jobs in the bakery. These boys are paid less than an average immigrant worker with legal documents.

Apart from bakeries, other immigrant retail stores like grocery shops sometimes employ illegal minors.

³⁶ Annual Report of the Centre for Equal Opportunities and the Fight against Racism, 1997:58-59.

Case 6

One Moroccan girl was ‘invited’ to come to Belgium by a person from the same background, a small-scale entrepreneur in the food-retailing sector owning several grocery stores, with the promise of work in his stores. Indeed, the girl worked but she was not remunerated for the labour, which she delivered day and night. Her chances to escape this life were minimal since she had no outside network. Fortunately, one of the two spouses of the man helped her escape and she was later found in France. It turned out that the girl has no family ties with the small-scale Moroccan entrepreneur in Belgium. Prior to her migration, it was her aunt who contacted the storeowner in Belgium. The man who exploited her is now currently being detained on remand and one of the wives and daughter have made a declaration.

Source: social worker at Pag-Asa

b) Domestic workers in diplomatic circles

Unlike the case of some countries in the Middle East and North-eastern Asia, one cannot enter Belgium or other European Union countries legally with the status of domestic worker. Yet the practice of employing domestic workers does exist in diplomats’ homes. Economic exploitation in this category involves: wages lower than the legal minimum standard in Belgium and usually lower than the originally agreed salary, long working hours, poor living conditions in terms of food and accommodation and vulnerability, since these domestic workers live and work within the confines of a private home. Aside from economic exploitation, most are also subjected to torture and both verbal and physical threats. Yet it is impossible to file a criminal suit against diplomats on the basis of the 13 April 1995 law on trafficking in human beings due to their diplomatic immunity. It goes without saying that not all diplomats exploit domestic workers.

Case 7

Currently, there is one case pending at the labour tribunal. It concerns a Filipino family living in a diplomat’s house. The woman has an official full-time contract as a domestic worker. The husband does not have an official contract but does odd jobs. In terms of remuneration, the woman is paid as a part-time worker in spite of what the official contract stipulates. She receives monthly 3 400 USD (15 000 BF). However, the problems began when the woman became pregnant with her 4th child. She claims that she and the rest of the family were fired and literally ‘dumped on the street’ because they have too many children.

Source: social worker at Pag-Asa

This case demonstrates the generational effect of victims of THB. Their children do not have the same opportunities as other children of their age in terms of social development and schooling.

c) Au pair girls

The number of au pair girls in Belgium increased from about 158 in 1990 to 552 in 1995. In 1996, three au pair girls were assisted in the three reception centres: Payoke, Pag-Asa and Sürya, as victims of exploitation. Since July 1999, au pair girls need to have a basic proficiency in one of the three national languages, notably Dutch, French and German, which they continue to improve over the duration of their stay in the country.

d) Professional sportsmen

There are known cases of exploitation of young football players from Africa and South America in this sector. Untrustworthy agents go to African and South American countries in search of young talent. These young men are lured into coming to the West with the promise of playing for European football clubs. They enter the country on a tourist visa and then the agent attempts to 'sell' their talents to football clubs. If successful, a contract is signed with a club for a minimal wage for the football player. Often, the length of the contract is not respected so that the football club can 'own' these persons as a commodity. In the case of a transfer, the transfer fee does not go to the football player but to the football club. In the new club, the football player, once again, plays for a minimal wage. In case of disinterest in the player by football clubs, there is no contract and, as such, the player does not even obtain a minimal wage.

The agent will still try to promote the football player among smaller football clubs who will pay the player informally or in kind. Both cases show exploitation of foreign non-EU football players in varying degrees, and can be seen as forms of economic exploitation. Minors too are brought into the country in a similar way and for the same purpose. They enter as 'students' and not as tourists as in the case of adults. They are enrolled in vocational schools as part-time students. This practice is not completely legal since a foreign student can obtain residence papers only to undertake studies at university level or in non-university institutions of higher studies (thus after high school). The issue at stake here is the future prospects of these minors. In case they do not succeed in the football world, what becomes of them? Are they to be sent back home empty-handed?³⁷.

Article 9 of the Royal Decree of 9 June 1999 containing the implementation of the 30 April 1999 law concerning the employment of foreign workers, mentions two new criteria for the 'professional sportsman' category. Firstly, the sportsman has to have reached the age of 18. Thus, minors can no longer enter legally under this category. The criterion concerns the remuneration, which has to be at least double the amount of the remuneration determined according to the terms of article 2, paragraph 1 of the 24 February 1978 law concerning the employment contract for paid sportsmen. By doing so, the legislator aims to stop the entrance of very young players into the country. However, there is no provision for existing contracts.

e) Exchange students and potential sexual exploitation

There are very few known cases of exploited exchange students or students concerned by the smuggling/trafficking of human beings. In Great Britain, it was recently disclosed that Chinese gangs provide false diplomas to young Chinese people who want to go to Great Britain for further education. There is no specific data on minor girls involved in this scheme³⁸. With regard to Belgium, it was the Belgian Consulate in Casablanca, Morocco that rang the alarm bell concerning

³⁷ Centre for Equal Opportunities and the Fight against Racism, 1998.

³⁸ Migration News, March 2001.

a new network of smugglers in human beings providing alleged Moroccan students with the necessary documents such as diplomas, to apply for student visas for Belgium³⁹. The Consulate claims that many student visas were improperly issued to young Moroccan people, who clearly did not have an academic profile. Since this revelation, the number of applicants has decreased drastically in recent months. Last year, 9 500 visas were issued to Moroccan applicants. Once again, there is no mention of girls.

3.3.3 Sexual exploitation

Trafficking in human beings for sexual exploitation is mostly linked to ‘women and minors’, as they both constitute highly vulnerable groups. However, boys are also currently being trafficked for the same purposes. Many of the women trafficked to different European countries for the purposes of prostitution enter the country legally, either on a tourist visa or, in the case of several countries, as ‘entertainers’. Once their visa expires, these women become undocumented and thus even more vulnerable than before. They may then move to another European country to make sure that they do not stay for too long as illegal migrants in one country. According to Chris De Stoop, the Belgian journalist who first brought attention to this issue in Belgium in his book on female Filipino prostitutes, published in 1992, some of the traffickers may have the women arrested by the national law enforcement agencies in order to avoid paying the return fares for the women. Moreover, by expelling these women from the national territory, it becomes very hard to prosecute the traffickers since the former can no longer testify against them. In Belgium, like in the Netherlands, women who are victims of sexual exploitation are not repatriated immediately. They receive a temporary residence status to allow them to ‘stabilise’ themselves before they decide whether or not they want to press charges against their exploiters. Those women who are not willing to make an official declaration in which, among other things, they provide information on the criminal network and other details, are not regularised. Given their illegal status, they have no choice but to return to their country of origin. However, in the case of intercepted UAMs, the status of THB victim is given automatically if return proves to be impossible.

In Belgium, as stated earlier, the book by Chris De Stoop and the efforts of Patsy Sørensen, the co-founder of the Payoke shelter for victims of sexual exploitation have contributed to a change in the thinking and attitude towards prostitution in general, and women as victims of sexual exploitation in particular. Although not a formally recognised profession of self-employment, prostitution is not illegal in Belgium. However, organising prostitution for profit-making purposes, notably the activities of a ‘pimp’, is legally forbidden because of its exploitative nature. Despite the growing awareness of female THB victims, often, law enforcement agents at different levels are indifferent at best and at worst insulting towards these ‘foreign prostitutes’, adults and minors alike. Agents have difficulty believing the prostitutes’ accounts. Stereotypes about foreigners, women and illegal migration might explain this negative attitude towards victims of THB⁴⁰. Awareness-raising campaigns are very much needed in order to remedy this problem. One good way of overcoming the stereotypes is to encourage more women to join the police force or other law enforcement agencies. In Ghent, a special unit in the local police force is responsible for matters concerning prostitution. It appears that foreign prostitutes are more willing to talk to the women police officers than to their male counterparts. Women tend to be generally more sensitive to issues pertaining to sexual exploitation and especially in the case of under-age girls and boys.

³⁹ *De Standaard*, 7 March 2001.

⁴⁰ 1997 annual report of the Centre for Equal Opportunities and the Fight against Racism.

Very few migrants enter Belgium on tourist or entertainer visas. With regard to the status of 'entertainer', the rules for obtaining the work permit for 'cabaret entertainers' were revised in 1993, in order to provide the workers with more protection. Every foreigner who wants to work in Belgium needs to obtain a work permit. In the new system, the cabaret entertainer has to collect the work permit from the municipality in person. S/he receives a multilingual brochure containing information about her/his rights and a series of addresses, where s/he can seek advice and support in case of problems. The work contract needs to be written in a plain style that is understandable to the employee. Finally, prior to the approval of the application for a work permit, the entertainer is not allowed to work.

Moreover, there is also abuse of asylum by traffickers in human beings. Whereas nationals of Poland, the Czech Republic, Slovakia and Hungary are legally allowed to stay up to three months in an EU country without a visa, nationals of countries without this dispensation can use forged documents, provided by traffickers. Such abuse of asylum by traffickers takes place as follows: during the procedure of application for asylum, female pseudo asylum seekers are legally entitled to stay in the country. They live officially in reception centres but 'work' outside. The staff members of reception centres are well aware of this abuse, as are NGOs and other organisations and actors dealing with trafficking in human beings and prostitution.

Others in this category apply for asylum but do not need any official support. As indicated by the officer at the Dispatching Service of the Red Cross, some girls blatantly exploit the asylum status with the purpose of working in prostitution. According to different respondents, the particular behaviour of certain cases strongly supports the suspicion of exploitation in prostitution. For example, a woman/girl applies for asylum but does not require support or shelter from a reception centre. When asked whether she has a private address, she basically cannot give a straightforward answer. An under-age girl exploiting the asylum procedure under false pretences will not voluntarily disclose her age, since prostitution of minor girls is not tolerated by the law⁴¹. Since recently, this practice of minors declaring themselves older than their actual age has been noted as being particularly common among Albanian and other Eastern European girls. In the mid-1990s, Pag-Asa pointed out the alarming phenomenon of very young girls, barely 14 years old, who claim asylum as adults without arousing any suspicion on the part of the authorities. Although since 1997 age assessment is required when the applicant for asylum looks unusually young, it is not compulsory.

The city of Antwerp has been subjected to incisive criticism by NGOs claiming that traffickers in human beings can operate there without interference from law enforcement agencies. Arrests concern the female victims but seldom Belgians, who benefit substantially from these extremely lucrative practices such as, rack renters, dishonest lawyers and owners of window shops. It should be noted that although the owners of the premises are Belgian, many of those subletting the window shops are Albanian. The window shops are leased for a shift of 12 hours without any written tenancy agreement⁴². Needless to say, this situation has led to a phenomenal increase in the rents.

Finally, some of the pseudo asylum seekers enter their target country via networks of smugglers/traffickers in human beings. Until intercepted/arrested, such migrants do not have any formal contact with any public authorities of the target country. The scope of this group is difficult to determine given the clandestine nature of their stay. Thus, the data available on this category of

⁴¹ Source: personal communication from the Public Prosecutor for Brussels and the Flemish Brabant.

⁴² Source: personal communication from the Director of 't Huis.

migrants in an irregular administrative situation cover only those who have had contact with the public authorities. As such, the available data on this group are an underestimation of the reality.

An age assessment of both UAM asylum seekers and non-asylum seekers suggests that the majority are close to the adult age of 18 years, except in the case of Congo, Burundi and Rwanda. Among the latter, young girls are especially vulnerable to illegal smuggling, e.g., for illegal adoption purposes, child prostitution and paedophilia. Again, data on these matters are very scarce.

Case 8

There was a case of paedophilia of Roma children in 1996, a year before the Julie and MéliSSa case came to light. These two Belgian girls were kidnapped, maltreated and locked up in the basement of a house, where they eventually died. Evidence in the form of tapes of surveillance cameras in the parking lot of the City Hall of Brussels is available, since these youngsters were sexually abused on this public space!

Source: personal communication from a General Commission officer.

The fact that girls nearing their majority are involved in prostitution seems to confirm the general trend of the age of women prostitutes becoming increasingly younger. Within the Albanian 'network', consisting of loosely knit gangs, Albanian girls are generally deceived, tricked and lured into prostitution. Other Eastern European girls (Romanian, Bulgarian, Moldavian, Russian, etc.) are trafficked from their home country to Albania. There they are sold to Albanian gangs, who treat them as commodities to be trafficked to the West and to work for them in the sector of prostitution.

The young age of these girls might be explained by certain push factors in the country of origin. The societies of these former Soviet bloc countries have completely disintegrated since the fall of the Iron Curtain. The transition from a centralised Communist regime to a free market economy has proved to be difficult. In addition, the social fabric and network have been weakened, if not completely fallen to pieces. Many of these girls come from broken homes or from those where parents are struggling with alcohol abuse and other social problems. They form an easy prey for traffickers in human beings since their desperate and hopeless situation in their own country, provides the necessary incentive to leave in search of supposedly better life. It is hard to pinpoint the exact relationship between supply and demand. Clearly in the different Western countries, there is a demand for young prostitutes given the lucrative nature of prostitution, on the one hand. On the other, these girls do not spontaneously react to this demand but are rather pushed by poverty and a shattered social life in their home country, which forces them to try their luck abroad. The fact is that supply and demand mutually reinforce each other. More case studies of girls victims of sexual exploitation and enmeshed in networks of trafficking in human beings are illustrated below in a qualitative assessment.

3.4 LEGAL MEASURES FOR COMBATING TRAFFICKING IN HUMAN BEINGS: PREVENTIVE/REPRESSIVE MEASURES AND PROTECTIVE MEASURES FOR VICTIMS

3.4.1 Preventive/repressive measures

The March 1993 law on the regulation of the activities of marriage bureaus aims to provide more protection of the quality of the rendered service. In concrete terms, the law provides more protection to foreign women and men, who aspire to enter into matrimony with someone residing in Belgium through these services. In practice, it is no easy task to penalise someone who, on the basis of false pretences or caprice, convinces a person in a foreign country to leave their own country with the prospect of matrimony and material well-being.

The 18 March 1993 Royal Decree and the three ministerial decrees of 19 March 1993 contain amendments to the regulation on the employment of foreign workers, in particular, cabaret entertainers (see above). These amendments give prospective foreign employees more rights and greater protection than before.

The 1 June 1993 law concerns the penalisation of employers, employing foreigners who stay illegally in the country. A distinction is made between severe and less severe offences. A severe offence involves an employer (an institution or a person) employing a non-Belgian national without permission to stay in the country for more than 3 months and without a work permit. In Belgium, all foreigners wanting to work need to apply for a work permit. In addition, smuggling, recruiting and mediating on behalf of foreigners on illegal stay are considered severe offences.

A less severe offence involves an employer (an institution or a person) employing a non-Belgian national allowed to stay in the country for more than three months but does not have a work permit. When an offence is detected by the national police authorities, their local counterpart or a law enforcement officer, an official record is produced and sent to the Labour Judge, who then decides whether or not to take the case to court.

If prosecuted in court, the penalties involve both imprisonment and fines. For severe offences imprisonment, ranges from 1 month to 1 year and fines from 14 000 USD (600 000 BF) to 70 000 USD (3 million BF) per employee without documents. If not prosecuted because the Labour Judge decides not to take the case to court, the file is forwarded to the Administrative Fines Service of the Federal Ministry of Employment and Labour. In this case, the fine for a severe offence ranges from 3 500 USD (150 000 BF) to 11 500 USD (500 000 BF). For less severe offences, the fine ranges from 350 USD (15 000 BF) to 2 300 USD (100 000 BF) per employee without documents.

The legislator in some cases can demand the law-violating employer to pay for the costs incurred by the illegal foreign employee and members of his/her family with regard to the accommodation, healthcare and return of all those involved to their country of origin. The labour inspection office also has the right to confiscate certain belongings, whether or not the property of the law-breaking employer, for purposes of evidence or for the prevention of future activities of trafficking in human beings.

This law was passed in the same year that the Parliamentary Investigation Committee on trafficking in human beings was set up. The Committee insisted on the importance of passing this law on

combating trafficking in human beings, since it goes to the heart of the driving force of the practice, namely, huge financial profits.

The objective of the 7 July 1994 circular concerning the circumstances in which a marriage official can refuse to marry a couple is to prevent ‘fake’ marriages.

The 13 April 1995 law containing the terms for combating the trafficking in human beings and child pornography (Annex I) was passed as a result of the findings of the Parliamentary Investigation Committee. The Committee strongly urged the legislators to include the trafficking of human beings as a specific offence in the penal code. Prior to the establishment of the Committee, the trafficking of human beings was mostly linked to women prostitutes who are exploited sexually and thus, it was reasoned, the existing legislation concerning the organisation of prostitution was sufficient to combat trafficking in human beings.

The new Article 77bis, Paragraph. 1, added in the 15 December 1980 law on the access to the territory, stay, establishment and expulsion of foreigners stipulates that: ‘he who in whatever way contributes, either directly or via intermediaries, to the entrance of an alien into the country and makes use of deception, violence, threats or any other form of repression or abuse of the vulnerable position of the alien as a result of an illegal or precarious administrative situation or as a result of pregnancy, illness - physical or mental – shall be liable to a prison sentence of 1 to 5 years and a fine of 120 to 580 USD. The importance of this new article is that it disassociates trafficking in human beings from the exclusive realm of sexual exploitation of women and secondly, disassociates trafficking in human beings from the illegal residence status of a foreigner.

Other articles aim to discourage traffickers or exploiters of victims of trafficking through profit-making activities. It is worth noting that Article 8 of the chapter ‘extraterritoriality’ provides for prosecution of offences committed abroad, under the Belgian penal code, even without official notice or a complaint being filed by foreign authorities. This applies both to Belgian citizens abroad or foreigners on Belgian territory. This article is important in the fight against sex tourism, and more specifically child prostitution.

3.4.2 Protective measures for victims of trafficking in human beings

a) General

The 11 May 1993 circular, later replaced by that of 7 July 1994, provides for permission for persons, who find themselves in an illegal situation of stay, to stay legally in the country for 45 days after they have established contact with the recognised centres for victims of trafficking in human beings. During these 45 days, the victims have the opportunity to reflect on their illegal situation. They are also informed about their rights as victims of trafficking in human beings by the social workers of the 3 reception centres, i.e., Payoke, Pag-Asa and Sürya. Victims can either return to their country of origin, make an official statement or file a complaint against their traffickers and/or exploiters. In practice, victims have to give precise information about the journey, the traffickers and other useful information that would facilitate investigation of the organisers of trafficking. In the latter case, once the victims have made a declaration, they are allowed to remain in the country for another three months, in accordance with the ‘arrival declaration’ provision. During this period, the police services in collaboration with the judicial authorities investigate the case in order to determine whether it concerns trafficking in human beings. If it does, the victim can stay in the country for another 6 months.

Since the 1993 circular, exploited immigrants on illegal stay are no longer seen as law-breakers despite their illegal status but rather as victims because they are being exploited, be it economically or sexually. Unfortunately, this circular is not widely known among the different services dealing with victims of trafficking in human beings including the police services, public prosecutors, surveyors of social legislation, etc.

b) Data concerning application for the status of victim of trafficking in human beings

The Unit responsible for Trafficking in Human Beings at the Aliens Office centralises the applications for the status of victims of trafficking in human beings introduced by the three reception centres for victims of trafficking in human beings, i.e., Payoke, Pag-Asa and Sürya.

In 1999, there was a total of 106 applications. There was a slight decrease vis-à-vis 1998, in which 131 applications were submitted. In 1996, there were 117 applications and 150 in 1997. Between 1994 and the end of January 2000, a total of 623 applications were processed. Of the files introduced in 1999, 80 are being processed, 5 have been refused, 20 have been terminated due to disappearance or voluntary return and one has received the status of asylum seeker. In terms of sectors of exploitation, sexual exploitation accounts for 64 cases, economic exploitation for 28 cases, smuggling of human beings, exploitation in the football sector and exploitation in diplomatic circles each account for three cases and the remaining 5 cases have not been identified. Ten of the cases were regularised as of June 2000⁴³.

In terms of nationality, 59 persons originate from Central and Eastern Europe, 28 from Africa and 18 from Asia. The data for 2000 are currently not available. Additional information on the data for 1999, such as the asylum seekers/non-asylum seekers ratio or the gender ratio, is no longer available due to some internal problems at the Aliens Office. No distinction between minor and adult victims of trafficking in human beings has been made in the statistics so far.

3.5 HITHERTO IDENTIFIED NETWORKS OF TRAFFICKERS IN HUMAN BEINGS: A PROVISIONAL ASSESSMENT

The following assessment of networks of traffickers in human beings is based on the annual report of June 2000 on trafficking in human beings by the Centre for Equal Opportunities and the Fight against Racism and on recent topical issues reported in the media. The assessment is by no means exhaustive, given the high flexibility of these transnational networks in responding to measures taken by different national and multinational governments. In the last part of the report on the qualitative assessment of the issue, several interviewees provided additional information on the existence and functioning of these networks, based on their experience in the field. Their accounts also point to different forms of exploitation organised by the same, similar or different networks of traffickers in human beings. Thus, the tentative terms 'hitherto' and 'provisional' should be taken into account in reading this part of the report.

Concerning the African continent, there is the network run by Nigerians or Nigerian criminal organisations. Victims originate from Nigeria or a West African country and are controlled through a 'voodoo' ritual. They are flown by plane to a European country such as Belgium, Italy, Germany, France, the United Kingdom and Portugal, where most of them apply for asylum. They are then forced to go to another country, where some apply for asylum and others do not but are sold to brothel keepers. They are thus forced to work as prostitutes. West African networks are well

⁴³ Source: the Centre for Equal Opportunities and the Fight against Racism, 2000.

organised, unlike Albanian ones. According to social workers at Payoke, the cost of the Nigeria-Europe trip ranges from 500 USD to 2000 USD.

Case 9

The Nigerian/Liberian network is highly visible since all the girls tell a similar migration story with minimal variations. The story goes as follows: Deep in the night, the girl went to the 'toilet' in the bush. When she returned, the house was burning. She ran away and reached a port. There she met a 'white man' who took her into a boat and so she arrived in Belgium. A minimal variation to the main story is a 'white man', took the girl on an 'airplane' instead of a 'boat'. It is clear that these girls are instructed to tell this story to the officers at the Aliens Office.

Source: Officer, Dispatching Service, the Red Cross.

Albanian networks are smaller, more informal, more loosely knit and highly adaptable to new situations. At first, Albanian girls were trafficked by deceit, threat or violence.

Case 10

A 15-year old Albanian girl arrived in Belgium in 2000. It was her own choice to leave Albania, where she was living with her parents. Through the mediation of her aunt's sister-in-law, a husband had been proposed to her. The former paid her parents 200 000 Lecks in order to take her to Italy to be married to the man. The girl and the entire family agreed with this arranged marriage deal and went to Italy by boat. Once in Italy, the 'sister-in-law' explained to the girl that her husband-to-be was in fact already married. The 'sister-in-law's' brother picked them up and drove them to Turin. From there, they were taken to Belgium. In Brussels, the girl was entrusted with a person who worked in a bar and offered her work in prostitution.

Source: social worker at Payoke.

Recently the Albanian networks have expanded their area of recruitment to other Eastern European countries. The victims are lured into going to Albania or they just want to escape from the dead-end prospects in their own countries. The girls are sold by traffickers in human beings, who organise the journey through different countries. During the journey, these girls are manipulated and intimidated to such an extent that in the end, they no longer have neither the physical nor mental strength to fight and resist working in prostitution. As indicated by many interviewees, Albanian networks are extremely brutal and violent in forcing the victims to do what they are told to do⁴⁴.

⁴⁴ Source: personal communication from the Director of 't Huis.

Case 11

A 15-year old Albanian girl was intercepted in Brussels and put in the reception shelter of Pag-Asa. However, she continued communication with the Albanian milieu. Her migration trajectory illustrates the exploitative practices of Albanian networks. She was firstly taken to Tirana, the capital of Albania. There she was locked up in a room. She had to 'receive' men in order to learn the 'skills' of the prostitution trade. Then she travelled to Italy, where she was exploited and finally to Belgium for the same purpose.

Source: social worker at Pag-Asa.

Secondly, the network is loosely organised and often among the exploiters, there are members of the victim's family, whether close or not so close, e.g., husbands or sisters-in-law.

It seems that Albanian networks by expanding their search for new recruits outside their own country are expanding their illegal activities and becoming one of the main actors in the lucrative business of international trafficking in human beings. According to the Director of the shelter for UAMs in an irregular administrative situation, smugglers charge 19 000 USD for the journey from Albania to Great Britain.

Until the recent repatriation in the first week of January 2001 of asylum seekers from Kazakhstan who were refused asylum in Belgium, and co-operation between Belgium and Kazakhstan to combat smuggling/trafficking, Belgium was a favourite destination for Kazakhs. An exchange student at the Catholic University from Kazakhstan told the author of this report that it is very easy to arrange a trip from her country to Belgium. Once in the country, a social network of compatriots, legal and illegal, in different Belgian cities assist clandestine migrants in their application for asylum, finding accommodation, etc. However, given the Belgian discouragement policies whereby a liaison officer has been sent to Kazakhstan to disseminate information on the near impossibility of obtaining asylum in Belgium, in conjunction with a severe return programme, it seems that the pull factor has diminished significantly, whereas the push factor has remained as acute, i.e., poverty, lack of education and job opportunities, etc.

In the European context, there is clear proof of the existence of a Belgian-Turkish organisation, specialising in fake marriages between Turkish immigrants and Belgians for a significant fee.

In Asian networks, the Chinese play a dominant role. Chinese criminal organisations traditionally engage in the drug trade, extortion of money and money laundering. However, recently these organisations have expanded to include the smuggling/trafficking of human beings among their activities, a move that has proved to be highly lucrative. Moreover, there are different 'snakehead' (trafficker) gangs, which do not necessarily have ties with traditional criminal organisations. In the specific 'market niche' of smuggling/trafficking in human beings, the victims are placed in the restaurant trade or (garment, leather) sweat shops to earn money in order to pay the debt for the journey and for the fake documents. According to the accounts of Chinese victims at the different reception centres/shelters, 'snakeheads' charge a sum varying between 16 000 USD (700 000 BF) and 46 511 USD (2 million BF). Aside from smuggling of human beings, Chinese gangs also engage in providing false documents, including visas and diplomas, to Chinese students who want to study abroad. In connection with visas, it was reported in a Belgian financial newspaper that

traffickers in human beings set up fictitious Chinese consultancy companies, to deceive well-meaning Belgian firms wanting to explore the Chinese market. The Belgian companies then send a letter of invitation to alleged Chinese businessmen, who want to visit them. With this letter of invitation, a legal visa can be obtained at the Belgian consulates in China⁴⁵. Concerning false diplomas, so far only the case of Great Britain as a target country is known⁴⁶(see infra).

⁴⁵ Financieel economische tijd, 28/2/1001.

⁴⁶ Migration News, March 2001.

4. TRAFFICKING OF UAM ASYLUM SEEKERS AND NON-ASYLUM SEEKERS

4.1 DATA FROM THE TRAFFICKING IN HUMAN BEINGS CENTRAL UNIT, CENTRAL OFFICE OF CRIMINAL INVESTIGATIONS

This Unit provides two sets of data: administrative reports consisting of police checks of aliens and thematic checks.

The administrative reports are all the result of instances of interception by the police of an alien for verification of the legality of his/her stay or arrival. These reports are sent to the Aliens Office.

Furthermore, in 2000, on the request of the Minister of Internal Affairs, different 'thematic checks on illegal immigration' were organised. The objective of these thematic checks is twofold. Firstly, the checks aim to intercept those who abuse the regularisation procedure, Euro 2000, or those who want to enter the country before the new asylum procedure comes into force. These checks also serve to discourage candidate asylum seekers and networks of smugglers in human beings from coming to Belgium as a host or transit country.

According to the administrative reports of the police checks of aliens for the January-October 2000 period, 14,824 persons were found to be illegally staying in Belgium. Of this total, 9.2 per cent (1,328) were minors at the time of being checked. Within this group of minors, 79.6 per cent (1,057) were non-accompanied. The 15-17 age group constituted 56.4 per cent (596) of the total. The proportion of those below the age of 14 ranged from 2.9 per cent to 3.4 per cent and did not exceed 4.5 per cent. However, from the age of 14 upwards, the number sharply and steadily increased from 6.1% to 12.1% to 18.3% to finally 26% respectively for the ages of 14, 15, 16 and 17. In terms of male-female ratio, 50.3 per cent were boys and 17.78 per cent were girls, whereas there is no indication of gender for the remaining 32 per cent.

TABLE 10: AGE OF UAMS IN AN IRREGULAR ADMINISTRATIVE SITUATION
IN ABSOLUTE TERMS AND IN PERCENTAGE (1-8/2000)

Age	Number	Percentage
0	10	0.9%
1	31	2.9%
2	37	3.5%
3	34	3.2%
4	30	2.8%
5	26	2.5%
6	29	2.7%
7	26	2.5%
8	28	2.6%
9	14	1.3%
10	25	2.4%
11	36	3.4%
12	22	2.1%
13	48	4.5%
14	65	6.1%
15	128	12.1%
16	193	18.3%
17	275	26.0%
TOTAL	1057	100.0%

In total, 52 nationalities are cited in the reports. The nationality is based on the personal declaration of the individual since s/he does not have legal documents. The top thirteen nationalities constitute nearly 90 per cent of the total. The first two countries of origin are Yugoslavia and Afghanistan, and each account for more than 10 percent of the total.

TABLE 11: MAIN NATIONALITIES OF UAMS IN AN IRREGULAR ADMINISTRATIVE SITUATION

Countries	Number	Percentage
Yugoslavia	309	29.2%
Afghanistan	128	12.1%
China	98	9.3%
Unknown	86	8.1%
Serbia	78	7.4%
Albania	75	7.1%
Romania	56	5.3%
Turkey	35	3.3%
Iraq	21	2.0%
Algeria	20	1.9%
Ecuador	19	1.8%
Sri Lanka	13	1.2%
Armenia	11	1.0%
Iran	09	0.9%
TOTAL TOP 14	958	90.6%
TOTAL	1057	100.0%

Between January 2000 and the end of the year, 5 thematic checks took place. Depending on the assignment, the checks were enforced at irregular intervals along main roads, border train stations, borders and border areas. During two of these checks, UAMs in an irregular administrative situation were also found.

Between February 1 and 31 March 2000, among the total of 230 illegal migrants, 9 were UAMs. They were all at least 15 years old and more than half (in reality 5 persons) were 17. Among these 9 minors, 3 were female and the remaining 6 were male. Among these 9 UAMs in an irregular administrative situation, 4 were from Yugoslavia, 2 from Afghanistan, 1 from Tunisia, 1 from Somalia, and 1 from Ukraine. 5 of the 9 minors had arrived in Belgium by truck, one by car, two by boat and another by plane. In 6 cases, the final destination was Great Britain.

During the checks carried out between November 20 and 15 December 2000, 10 UAMs in an irregular administrative situation were found. 7 were from Afghanistan and were found with an adult from Kosovo. The 7 Afghans were aged between 9 and 15 years old. Only one of them was 9 and another 10 years old. They had entered Belgium as a transit country on their way to Great

Britain, their final destination. Moreover, there was one Albanian minor, 1 person from Kosovo and one Moroccan.

On the whole, these data once again confirm the assumption that the nationalities and migration project of UAMs in an irregular administrative situation vary greatly from those of UAM asylum seekers. It is clear that most UAMs in an irregular administrative situation see Belgium as a transit country to Great Britain. The majority of the UAMs are boys between 15-17 years, who most likely will work illegally. The age of the Afghan boys is an exception to this general trend. Social workers, who came in contact with some of these young boys, indicate that the boys' parents send them to Great Britain for schooling. For this purpose, the parents make use of smugglers of human beings.

4.2 DISAPPEARANCE AS AN INDICATOR OF POSSIBLE INVOLVEMENT OF UAM ASYLUM SEEKERS IN TRAFFICKING IN HUMAN BEINGS

4.2.1 General

Given the scarcity of data on UAMs and their involvement in the trafficking in human beings for sexual purposes, one way of attempting to fill this gap is to gather information on the cases of disappearance. Given their young age and lack of experience in life, it seems plausible to assume that when an UAM disappears, s/he will come into contact with traffickers.

The disappearance of UAMs during the transfer from the dispatching centre to the reception centre and during their stay at the reception centre sheds some light on the scarcity of data on UAMs and their involvement in the trafficking in human beings for sexual purposes. The dispatching centre is one of the first places that asylum seekers, adult and minor, come in contact with in the country of destination. The dispatching centre is also the institution that assigns asylum seekers to a reception centre. Theoretically, the officers at the dispatching centre check with the reception centres whether the assigned asylum seeker has arrived or not. His/her name has to be indicated on the lists of all the asylum seekers. However, a detailed study of these registers does not provide a valid representation of cases of disappearance since the number is too low, according to the management of the reception centres. As these officers work in an extremely stressful situation, they do not have the time to register all cases of disappearance systematically.

DeVille and Knockaert (1998) claim that in the case of the open reception centre, 'Het Klein Kasteeltje/Le Petit Château', only 67.8 per cent of the UAM asylum seekers assigned to the centre in 1997 arrived. It is worth noting that in terms of sex ratio, more than half of the girls did not show up at the centre, whereas 'only' 26.6 per cent of the boys did not arrive. This fragmentary piece of data clearly shows the propensity of girls to disappear and to most likely enter the prostitution industry.

Data on cases of disappearance during stay at the reception centre of Kapellen are available.

4.2.2 Disappearance during stay at a reception centre: the case of Kapellen

Table 12: Asylum Seekers, adult and minor, who have left the Centre of Kapellen, in absolute figures

Since the centre was set up in 1997, the total population of adults and minors, who have left the centre with an address amounts to 2 274, whereas about half have left without leaving an address or have disappeared. With regard to the minor population, the number of those who have left the centre without leaving an address - and who can be presumed to have disappeared - is slightly higher than that of those who have left an address. This means that among minors, there is a higher incidence of disappearance than among the overall population. Given their minor status, it is believed that there is a great chance that they fall into the hands of smugglers/traffickers in human beings.

Table 13: Idem in percentage

In terms of percentage, 59% of the total population have left the centre with an address, whereas 27% have left without leaving an address and thus presumably have disappeared. 44% of the minors have left with an address and 45% have left without leaving an address, and thus have presumably disappeared.

Table 14: UAM Asylum Seekers who have left the Centre of Kapellen by Sex

An assessment of the male-female ratio among UAMs who have left the centre indicates that out of a total of 42 girls who have left the centre, 28 have left with an address and 14 without an address. Among the 220 boys who have left the centre, there are far more minors who have left without leaving an address than those who left with an address. In other words, the degree of disappearance among boys is higher than among girls. The disappearance of UAMs is a reality and occurs in every reception centre. On the one hand, the federal police wonder whether this kind of reception is suitable for UAMs. On the other hand, these centres are open institutions where asylum seekers are received and lodged. As they are not criminals, evidently they have the freedom of movement. The issue, however, is how to improve the protection of UAMs without unnecessarily limiting their freedom and disturbing their social development. It is fair to say that disappearance occurs even in small centres and not just in the large ones such as Kapellen.

Preliminary Results on the Study of Missing Children by Child Focus-Belgium

Since February 2001, Child Focus, a centre for missing and sexually exploited children in Belgium is working on a ongoing study concerning cases of UAMs, both asylum seekers and those in an irregular administrative situation who have disappeared⁴⁷. The study aims among other things, to strive towards a better co-ordination and efficiency in dealing with the problem of the disappearance of UAM. For the purpose of the study, Child Focus has gathered information from reception centres, the Aliens Office, and the Unit of Missing persons from the Belgian Federal Police.

The selection of these cases bears particular links to trafficking/smuggling or sexual exploitation of children. Preliminary data on 110 cases showed the following results. 70% of the missing UAMs are male. 80% of the total are between 14 and 17 years old, followed by 17%, which are under the

⁴⁷ Source: Personal Communication with Heidi De Pauw, Child Focus May 2001.

age of 13. 65.5% of the total missing minors were asylum seekers at the time of their disappearance. In addition, 70% of the missing minors were residing legally in Belgium at the moment of their disappearance.

The largest group of UAMs making up of 49% of the total are nationals from Eastern Europe (i.e., Moldova, Ukraine, Estonia, Albania, Kosovo, Serbia, and FRY), followed by 29% Africans (i.e., Nigeria, Sierra Leone, Rwanda, etc) and 22% Asian (i.e., Sri Lanka, Pakistan, Afghanistan, etc), mainly all the Asian cases are male except for one Chinese girl. One of the interesting aspects of African group is the fact that 70% are made up of girls, thus making an exception when it comes to UAMs.

Cases regarding sexual exploitation of children make up 29% of the total, and 94% of these cases involved girls. Albanian nationals are prominent among this group, yet boys from Sri Lanka are also cited among the cases. According to Child Focus, the majority of the girls involved in prostitution applied for asylum as adults, thus attempting to diverge the eyes of the authorities. One of the major concerns of Child Focus is the fact that it is believed that the criminal networks are chasing these children, and for the moment in the majority of cases nothing is known about their fate. Results of the study should be ready in the Fall 2001, yet it is import to stress that this initiative is not only timely, but also very important in order to highlight and clarify this issue. Furthermore, initiatives such as this by Child Focus should be duplicated in other EU Member States in order to shed light on this problem, and ultimately to devise and implement durable solutions.

4.3 QUALITATIVE ASSESSMENT OF UAMS IN AN IRREGULAR ADMINISTRATIVE SITUATION AND TRAFFICKING

4.3.1 't Huis: A model reception shelter for UAMs in an irregular administrative situation

't Huis is a reception centre for UAMs in an irregular administrative situation, located in Aalst, a town situated between Ghent and Brussels. The centre was initiated by a few people, who had previously worked on issues relating to trafficking in human beings at the Centre for Equal Opportunities and the Fight against Racism. One of the founding members is the current Director of the reception centre, which opened in September 1998. The objective of this small reception home for minors is to offer them shelter and different kinds of assistance, e.g., legal, psychological, social integration, reinsertion in the local schools and a return project on the explicit request of the minor. There are 9 social workers for a maximum of 15 minors. According to the centre's report of September 2000, the centre has information on 68 minors.

Eastern European UAMs make up the majority of residents at the 't Huis centre with 53 per cent (44 minors), followed by 23 per cent Africans (18 minors) and 19 per cent Asians (15 minors). Out of the 44 minors from Eastern Europe, 19 are from Albania, of whom there are 9 girls and 10 boys. Kosovo follows Albania with 13 boys. The UAMs from African countries are evenly divided in terms of nationality. Among the Asian UAMs, the Chinese are predominant.

In terms of sex ratio within the Eastern European group, there are 57 per cent boys and 43 per cent girls. Among the African group, the gender ratio is equally distributed with 50 per cent boys and 50 per cent girls. In the Asian group, the predominance of boys is striking, representing 80 per cent of the total. There is also one Italian boy. From the total picture of the gender divide, it can be

concluded that there are more boys than girls staying at this centre. Percentage-wise, this means 60 per cent boys and 40 per cent girls.

Given the intensive support and the small size of the centre, the social workers succeed in securing the trust of the minors. Thus, the centre has relatively reliable information on the migration background of the minors and to what extent they are involved in practices of smuggling and/or trafficking in human beings.

Of the Eastern European UAMs, 68 per cent of the girls are victims of sexual exploitation. In absolute terms, 13 out of 19 girls have been sexually exploited. Eastern European girls mostly come from broken and/or unstable homes, where the generation gap has become extremely wide. Thus, they become easy prey to smugglers/traffickers in human beings, who deceive them with promises of marriage in the West or well-paying jobs.

Case 12

A Bulgarian girl of Roma background aged 15.5 claiming to be 18, applied for asylum at the Aliens Office with the help of her pimp. In reality, she went straight to a window box. Since there was some suspicion regarding her alleged age, an age assessment was required. The bone x-ray revealed her true age of 14.5. The police in co-operation with the victim succeeded in arresting the pimp. Bulgarian girls are extremely hard to deal with. They do not co-operate: they are very arrogant and not open to external aid and support.

Source: Director of 't Huis.

Other girls are forced to migrate to the West with the consent and actual involvement of the parents. The following case of an 11-year old Serbian girl of Roma background shows a different case of exploitation.

Case 13

An 11-year Serbian girl stole several clothes from the department store C&A. The parents hired a lawyer to return her home. However, the parents never showed up at the reception shelter/centre. Instead, a lawyer came to fetch her. There is strong suspicion that the family exploited or abused the girl by forcing her to steal.

Begging is another form of exploitation, often imposed on UAMs by family members.

Case 14

One horrendous anecdote is the case of a Roma mother who cut off the finger of her daughter so that she could get more money from begging.

Source: Director of the Kapellen reception centre for asylum seekers.

In contrast, nearly all the boys at the centre were involved in the smuggling of human beings with the intention of going to Great Britain, but were intercepted in Belgium, a mere transit country in their illegal project. Usually, these boys aim to join their parents and/or other family members, residing mostly illegally in Great Britain. The boys originate from a number of countries notably Afghanistan, China, Eastern European countries and Somalia.

However, reunification with family members also poses a problem. For instance, if the parents are staying illegally in another European country, then it is not clear whether family reunification might be the best way of protecting the best interests of the child.

Case 15

Two boys from Kosovo aged 13 and 14 were on the way to Great Britain to join their parents with the assistance of smugglers of human beings. However, they were arrested in Belgium and at first placed at the closed centre in Mol. The reason was that all other centres were full. After two months, they were transferred to the 't Huis centre. Although they felt relatively happy there, they undertook an attempt to escape to Great Britain. Once again, the boys were intercepted by the police, who returned them to the centre. To assess the possibility of family reunification, the Red Cross was contacted to trace the parents. It turned out that the latter were illegally residing in Great Britain. In the meantime, the boys received 9 months of intensive support at the centre and are currently staying in a host family. They speak the local language and attend the local school. Given the boys' smooth integration, it has been decided that staying in Belgium is in their best interests.

Source: Director of 't Huis.

Among the African UAMs, 5 out of 9 girls are victims of trafficking in human beings for the purpose of sexual exploitation. In the case of 2 girls, the situation is difficult to ascertain. There are very few girls from the DRC, Rwanda and Burundi. According to the Director, this is due to the Flemish-English speaking facilities in Flanders and at his reception centre. Another issue raised by the Director, which needs to be taken into account, is the involvement of the parents in the trafficking scheme.

Most of the girls are intercepted at the border or while working as prostitutes.

Case 16

A Nigerian-born Sudanese girl was intercepted while working as a prostitute. She pretended to be 20 years old but turned out to be 17 after an age assessment through a bone x-ray. She had flown from Nigeria to Ghana together with two other Nigerian girls, who were raped. She travelled by car with a 'Madam' from Amsterdam to Antwerp, where she worked as a prostitute.

The case below, which is not an isolated one, shows clearly how in some cases, return is neither the best solution nor in the best interests of the minor/young adult. The Director of 't Huis is of the opinion that in African countries, return is seldom a good practice because the chance that the girls will enter prostitution is extremely high.

Case 17

A Nigerian girl was intercepted at Zaventem Airport, carrying false documents. A man, who already had a criminal record as a trafficker in human beings was accompanying her. The plan was to fly to Madrid to join the girl's sister. The girl at first claimed that she had arrived in Belgium by boat in Antwerp. This was a false story because, in reality, as she later disclosed, she had flown from Nigeria to Frankfurt. From there, she had travelled over land to Brussels. It is there that she was found in the company of a man, who would fly with her to Madrid, where she would work in prostitution. As she was intercepted, she has been saved from an existence of prostitution. After one year of intensive support at the reception shelter, the girl's documents have been regularised. At present, she lives in Ghent. After the incarceration of Moses, the trafficker in human beings found in her company, the girl's father in Nigeria started putting pressure on her in Belgium to work and make money in order to repay the debt for the trip from Nigeria to Europe. As a result the girl, now a young woman, has broken ties with her family and started a new life in Belgium.

Source: Director of 't Huis

Disappearance also occurs at this centre despite the intensive support. A similar but not identical case to the one above concerns a Nigerian-born Sudanese girl.

Case 18

The third Sudanese girl disappeared from the centre after 4 weeks. It is speculated that she escaped out of fear of her traffickers and/or due to pressure from her own group.

Source: *ibid.*

Among the Asian UAMs at the 't Huis centre, 2 boys and one girl from China are victims of trafficking for the purpose of economic exploitation in a Chinese restaurant (see Economic Exploitation). 7 boys and one girl were smuggled out their countries with Great Britain as the country of destination. It is generally believed that boys and girls alike have been trafficked for

labour purposes and not for sexual exploitation. Asian girls might be victims of sexual exploitation during the many transit stops but it is certainly not an organised business as in the case of other nationalities. None of the social workers or the Directors of the three reception shelters/centres is aware of any case of a Chinese girl who has been subjected to systematic sexual exploitation.

Most of the girls who are victims of sexual exploitation were found in the cities of Antwerp and Brussels.

Concerning the movements of former UAMs who have left the centre, the picture is very diverse. Out of the total of 68 UAMs, 22 have disappeared and presumably left for Great Britain. Another 10 have also disappeared but no plausible explanation can be given for their disappearance. 9 have chosen to return to their country of origin. Among these 9 minors, 4 have returned to Albania, 1 to the Czech Republic, 1 to Morocco, 1 to Romania and 2 to Kazakhstan. One return, namely of Tania to Albania, received widespread attention. She was one of the first victims of sexual exploitation to return.

4.3.2 The three official reception centres/shelters for (adult and minor) victims of trafficking in human beings

a) Pag-Asa

Since the centre's inception in 1995 to 1999, 20 UAM girls have been registered. These girls were arrested during police checks in the prostitution milieu. Of these 20 girls, 18 were being exploited for sexual purposes, whereas one case can be considered economic exploitation and the other a case of smuggling in human beings. There are no cases of boys being exploited sexually. At the centre, there are 6 boys from Albania, 4 from Moldavia, 2 from Russia and 2 from Romania. There is a girl per each of the following countries: Bulgaria, Sierra Leone, Nigeria, Kazakhstan, Morocco and China. Apart from the Moroccan and Chinese UAM girls, all the others are victims of sexual exploitation. The Moroccan UAM girl was a victim of economic exploitation and the Chinese UAM girl, of smuggling in human beings. In the year 2000, out of 83 new cases at the centre, 15 were minors, mostly from Nigeria and Eastern Europe.

An intercepted minor is *a priori* entitled to the status of victim of trafficking in human beings and is thus supported by Pag-Asa. In contrast, adults need to provide information on the organisers of the trafficking and other details. In addition, the social workers at Pag-Asa inform the intercepted victim of trafficking about his/her rights. The information is apparently necessary since often victims are told by their traffickers to distrust law enforcement agents and organisations and therefore not to disclose any information⁴⁸. Once they have made up their minds to apply for the status of victim, victims of trafficking obtain legal assistance while staying elsewhere - in other shelters or living semi-independently or making use of the shelter facilities of the Pag-Asa.

Although every case is highly personal and context-specific, certain broad trends can be detected. In terms of age, most UAM girls who were 15 at the time of registration were close to the adult age of 18 (16-18 year group). This makes sense since these girls are forced to work in the prostitution sector, where a fully developed female body is required. Most of the girls at the centre were found while working in prostitution.

⁴⁸ Source: personal communication from Eric Van der Sypt, Public Prosecutor for Brussels and Vlaams-Brabant.

Case 19

An Albanian girl aged 16 was found in a window box with many other minor prostitutes. She was placed at the centre in Ieper.

Another minor Albanian girl, who in the meantime has become an adult, was intercepted in 1998 while being exploited in the sex industry in Brussels. At first she did not admit to being sexually exploited, insisting that she was working for herself. However, her smugglers put pressure on her parents since she did not make money for the network. The girl's parents made many attempts to contact their daughter in Belgium through faxes they sent to the Albanian Embassy in Belgium. Under this pressure, she could no longer withhold the truth and she finally gave in and decided to make a declaration. She has spent quite some time at Pag-Asa. At present, she is very well integrated, speaks French fluently and has a regular job.

Yet another Albanian girl was forced by her sister's husband to work as a prostitute in the red light district of Antwerp. The police arrested her. Although she was willing to co-operate with the police in providing information on her brother-in-law, who functions as pimp, her case was not followed up due to lack of information. Her sister and brother-in-law disappeared.

Case 20

A Moldavian girl aged 17 was arrested in Gembloux with an adult. She was being exploited by Albanians, some of whom are now on remand. Two Belgian couples are also involved in this case of exploitation. They own bars, where illegal minor girls worked as prostitutes.

Besides the areas set aside for prostitution, in recent years due to increased police checks, prostitution tends to be organised in private homes. Such is the case of a girl from Kazakhstan, who arrived in Belgium with the intervention of smugglers. When she was intercepted and transferred to Pag-Asa for help, she agreed to be repatriated.

Others decide to stop working as prostitutes with the help of other people.

Case 21

A Moldavian girl was 17 when she escaped from the prostitution sector with the help of a neighbour. Together they went to the police in Aalst. The girl had been forced into prostitution by a Russian 'acquaintance'.

Secondly, the large number of Albanian and other Eastern European UAM girls is evidence of the increasing activities of an Albanian network, or more accurately, networks. According to a social worker at Pag-Asa, there are several small, informal and highly adaptable networks of Albanians, engaged in illicit transnational activities such as drug dealing, smuggling in human beings and

trafficking of women and girls. Such networks are made up of members of the same family or at any rate of people who know each other quite well. They engage jointly in illegal transitional activities and the networks often disintegrate due to in-fighting and other internecine conflicts. These networks recruit in Albania and in other countries including Moldavia, Russia and Ukraine. Non-Albanian girls are contacted in their own country and arrive in Albania after passing through several intermediaries. In Albania, a kind of human auction is organised, where interested pimps gather to select their 'commodity'. From Albania, the girls are trafficked to Italy and France, where they work in prostitution. From there, they are sent to other destinations including Antwerp, Brussels, Liège, Charleroi, etc.

There was also one case of smuggling of human beings relating to an UAM Chinese girl from the province of Fujian in China, who was accompanied by an adult young man. This case shows the adaptability of smugglers in changing the routes of entry for purposes of escaping interception. Whereas the Eastern European route used by Chinese 'snakeheads' (human smugglers) is now widely known, the above case reveals an alternative route with Istanbul and Copenhagen as transit points.

Case 22

A girl left China firstly for Bangkok with two other girls. In Bangkok, they were picked up by smugglers of human beings, who provided them with false documents. They then flew to Istanbul and Copenhagen. There the girl met a young man, who eventually accompanied her to Belgium. In Copenhagen she applied for asylum. With the help of smugglers, she flew to Belgium with Chicago as her destination. However, the Belgian federal police intercepted the girl and young man at Zaventem Airport. She had already paid a sum of 30 000 Yuan to her smugglers. This case and that of the young man have now been closed, and the situation of both has been regularised.

b) Payoke

Payoke social workers indicated that their reception centre supports in the first place adult women but that they do have some experience with UAM girls as THB victims. At the time of the interview (October 2000), there were four UAM girls living at the reception shelter of Payoke. This figure represents less than 10% of the total files they dealt with in 2000. The nationalities of the residents are: Albanian, Sierra Leonean, Moldavian and Romanian.

Case 23

The case of this 17-year-old Moldavian girl is a textbook example of sexual exploitation. The girl was misled by traffickers in human beings with the promise of a vacation job offer in Italy. She left her country in July 2000 and was first transferred to Romania together with four other girls. The oldest one was 18 and the youngest 16. From Timisoara, Romania she went on to Yugoslavia. There she was entrusted with man Z, who sent her to Albania with another girl. They travelled by car, train and even on foot and reached Shkodra. They then moved on to Italy by boat and then by train to Lyon, where two other men picked them up and took them to Belgium. Here they were locked up in an apartment and both raped. However, the two girls escaped and called the police. The younger girl agreed to voluntary repatriation but her return was delayed by pregnancy caused by the rape.

Source: social worker at Payoke.

The same social worker also indicated that between June and October 1998 and July and November 1999 the Antwerp local police, responsible for the window brothel zone, listed 12 minors involved in prostitution. Among the 12 minors, 11 were of Albanian origin and one Romanian. The local police believe that the presence of minors in the red light district is related to the summer vacations in Albania: at the end of the school year, girls are trafficked to Western Europe.

Case 24

A 17 year-old girl from Sierra Leone fled her country with her husband and their 3 year-old boy. Her husband abandoned her and the boy in Belgium and escaped to Great Britain on his own. During her stay in Belgium, she gave birth to a second baby. That was when she came to the attention of the authorities. She is not recognised as a victim of trafficking since she arrived in the country with her husband. She is currently applying for asylum and is staying with her two children at the reception centre of Kapellen.

Source: social worker at Payoke.

Case 25

An Albanian girl also arrived with her husband. He forced her into prostitution. In addition, he beat her and is now in prison. She is not recognised as a victim of trafficking for a number of reasons. Firstly, her story was not logical. Secondly, she was in a highly unstable state of mind. Finally, she came to Belgium with her husband.

Source: social worker at Payoke.

The Romanian girl pretended to be 16 years but a bone x-ray indicated that she had attained the age of 20. Therefore she is not a minor anymore.

c) Sürya

As in the case of Payoke, the social worker at Sürya also stressed the fact that few minors have been registered at the reception centre/shelter. Since its establishment in 1995, only 10 files concern UAM girls, who were all victims of sexual exploitation. They fall into the 16-18 age group. Most of these girls come from Albania, Croatia and Ukraine. They are from small and broken homes and leave their country without having any clear idea about the country of destination. Needless to say, this social and cultural background makes them extremely vulnerable to deceit and exploitation by traffickers in human beings. Among the countries of origin of the Asian girls at the centre are: China, Laos, Thailand, Turkey and Pakistan, and the girls are mostly victims of economic exploitation. A Chinese girl had been forced to work in a Chinese restaurant, whereas the Thais and Laotians, mostly adults, had mostly worked in small sweatshops, in the countryside around Liège. Often, the sweat shop workers were packed in a small house where they sewed clothes day and night. There is no general tendency as to the age and gender of victims of the (small) garment industry. Men and women of all ages work together in inhumane conditions to pay off the debts they have incurred for their journey.

5. CONCLUSIONS AND RECOMMENDATIONS

Assessment of the available data shows that the countries of origin of UAM asylum seekers in Belgium include: the DRC/Zaire, Rwanda, Kosovo, Romania, Turkey, Guinea, Sierra Leone, Burundi, Yugoslavia and Angola. There are more boys applying for asylum than girls, except in the case of the DRC/Zaire, Rwanda and Burundi. The majority are aged between 16 and 18. With regard to minor girls involved in prostitution, the core countries of origin are Western African (especially Nigeria) and Eastern European (especially Albania). These girls are aged between 16 and 18 years. Albanian girls are often lured into prostitution through deceit with the promise of marriage or a job and through force. There are indications that some Albanian girls are trafficked during the summer vacation period, when they do not have to attend school in their home country. Recently, Albanian trafficking gangs have diversified their recruitment strategies. Girls from other Eastern European countries are tricked or forced to go to Albania. There, they are sold to Albanian gang members, who trafficked them to Western Europe. During the journey, they are systematically intimidated and raped by the gang members.

Moreover, trafficked girls also have to work as prostitutes in the different Western European countries. This brutal treatment purposely undermines the strength, self-confidence and social identity of these girls so that they become completely dependent on the gangs.

There is a clear demand for young prostitutes given the lucrative nature of the brothel business, both in open and private locations. It must also be borne in mind that these girls are in a sense very willing to try their luck in Western Europe since they come from broken homes with many social problems. It seems safe to state that there is both demand and supply and that these two forces have a mutual reinforcement effect. Although lip service is paid to the zero tolerance of under-age prostitutes in Belgium, in reality, some cities have been subjected to criticism for being too negligent and for a lack of determination to regularly check red light districts. Antwerp, but also Charleroi and Liège, have been criticised for their negligence and lack of interest in this acute problem. Yet besides the difficulties involved in dealing with under-age prostitutes smuggled/trafficked into Belgium cited above, there are many other reasons why the zero tolerance cannot be achieved immediately. Among these problems are: a lack of financial means, a shortage of personnel, and last but not least, a lack of personnel with expertise in matters relating to under-age prostitution. In terms of repression of trafficking in human beings, the penalties have become more severe.

In Belgium, a policy relating to the trafficking of women and asylum seeking and non-asylum seeking UAMs has been developed. There is the possibility for trafficked migrants to apply for the status of 'victim of trafficking'. In order to obtain this status, adult victims have to disclose information about traffickers and other relevant details, thus facilitating investigation of transnational gangs of traffickers of human beings. Intercepted UAMs in an irregular administrative situation are however automatically entitled to the status of THB victim, if return proves to be impossible.

UAM asylum seekers from the DRC, Rwanda and Burundi, among whom there are more girls than boys, are mostly involved in smuggling of human beings for purposes of illegal family

reunification, illegal adoption and possibly prostitution, although for the latter case there is no evidence.

Nationals of Afghanistan, Cape Verde Islands and China do not apply for asylum and, as a result, become migrants in an irregular administrative situation. These minors are usually mostly on transit to other countries to look for illegal work and, as in the case of some boys from Afghanistan, for education. The low rate of recognition of nationals of certain countries could be another reason for not applying for asylum.

Concerning the reception of UAM asylum seekers and non-asylum seekers, efforts are being made to provide them with appropriate shelter and support during their stay in the country. UAM asylum seekers stay in separate wings of open centres. At present, there are some reception centres for asylum seekers, which have a separate reception structure for UAMs. But in most centres, there is a lack of personnel and expertise vis-à-vis UAMs. A more uniform reception system needs to be established.

With regard to UAMs in an irregular administrative situation, the special reception centre 't Huis for illegal UAMs is an example of good practice as regards taking into account 'the best interests of the child'. The high rate of disappearance from all reception centres is alarming since it is very likely that the minors who disappear return to their traffickers and others who want to take advantage of them. It also indicates that the current reception facilities should be improved through the creation of a balance between protection/control and a social space where the minors can redress their trauma and develop themselves into mature and responsible adults.

There are no adequately functioning provisions in the general law and within the framework of the law on aliens for legal representation, e.g., a lawyer present during the first phase of the application for asylum or guardianship for UAMs. However, reforms were under way to redress this deficiency at the time of writing this report.

At present UAMs, generally attend schools outside their reception centre. This is a good practice, which needs to be maintained in order to guarantee a relatively 'normal' life for UAMs. They are integrated in a social environment, where they meet and interact with a wider peer group. In reality, UAMs tend to perform relatively well at school. Most of them have no major problems in acquiring a working knowledge of the local language. On the whole, they do not have major educational problems. However, UAMs who stay in closed centres cannot attend school outside the centre. UAMs do not belong in closed centres, they are placed there because of a shortage of room in other open centres.

The creation of a separate unit for UAMs at the Aliens Office is of course laudable. Yet so far, it has not been able to produce reliable and systematic data on UAMs in an irregular administrative situation. There is an urgent need for accurate and uniform data on UAMs, such as on the boy/girl ratio, the disappearance of UAMs on arrival or during stay at a reception centre, among other lacking data. In the available data on trafficking in human beings provided by the Aliens Office's Unit responsible for matters relating to trafficking in human beings, minors are not separately registered. The most frequently cited reason for these deficiencies is the lack of staff in both units.

The following recommendations can be drawn from the study:

UAMs travelling together with their siblings or other members of their family should not be separated.

There is need for co-operation and exchange of information among all the involved actors including the Aliens Office, NGOs, reception centres, the different ministries responsible for UAMs at different governmental levels, the police services and tribunals.

There is need for specialised staff, trained to deal adequately with UAMs.

The experiment of recruiting female police officers in Ghent has enhanced communication between the law enforcers and the foreign women and girls working in prostitution. The partial feminisation of the personnel might generate better contact and communication with female THB victims, minors and adults.

There is a lack of means for government officials as well as for NGOs to work efficiently in combating trafficking human beings and protecting UAMs.

The awareness-raising campaign experiment in Almaty, Kazakhstan, carried out in collaboration with IOM Brussels, has proved to be successful and has led to the appointment of a liaison officer. Through advertisements and hotlines, IOM informs potential migrants about the Belgian asylum procedures. This has led to a declining number of newcomers from Kazakhstan. The experiment demonstrates clearly that information and awareness-raising campaigns in the country of origin are useful in combating trafficking in human beings.

Improvement of communication with the countries of origin facilitates voluntary return of UAMs and others.

Tracing, home assessments and follow-up of returned UAMs need to be expanded and improved. The case of T., a girl who was returned to Albania in co-operation with IOM, illustrates that voluntary repatriation is also a viable option for THB victims.

The establishment of co-operation schemes with the country of origin and the countries of transit might prove to be an effective tool in combating trafficking in human beings.

The high number of UAMs on transit to other EU countries, especially to Great Britain, highlights the need for harmonisation of asylum policies at the European level.

The significant proportion of UAMs, who are economically exploited, clearly reveals the negative consequences of restrictive immigration policies within the EU, which contribute unintentionally to the flourishing of transnational trafficking practices.

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ANNEXES



Table 1.1. Number of asylum applications in Belgium (1987-nov.2000)

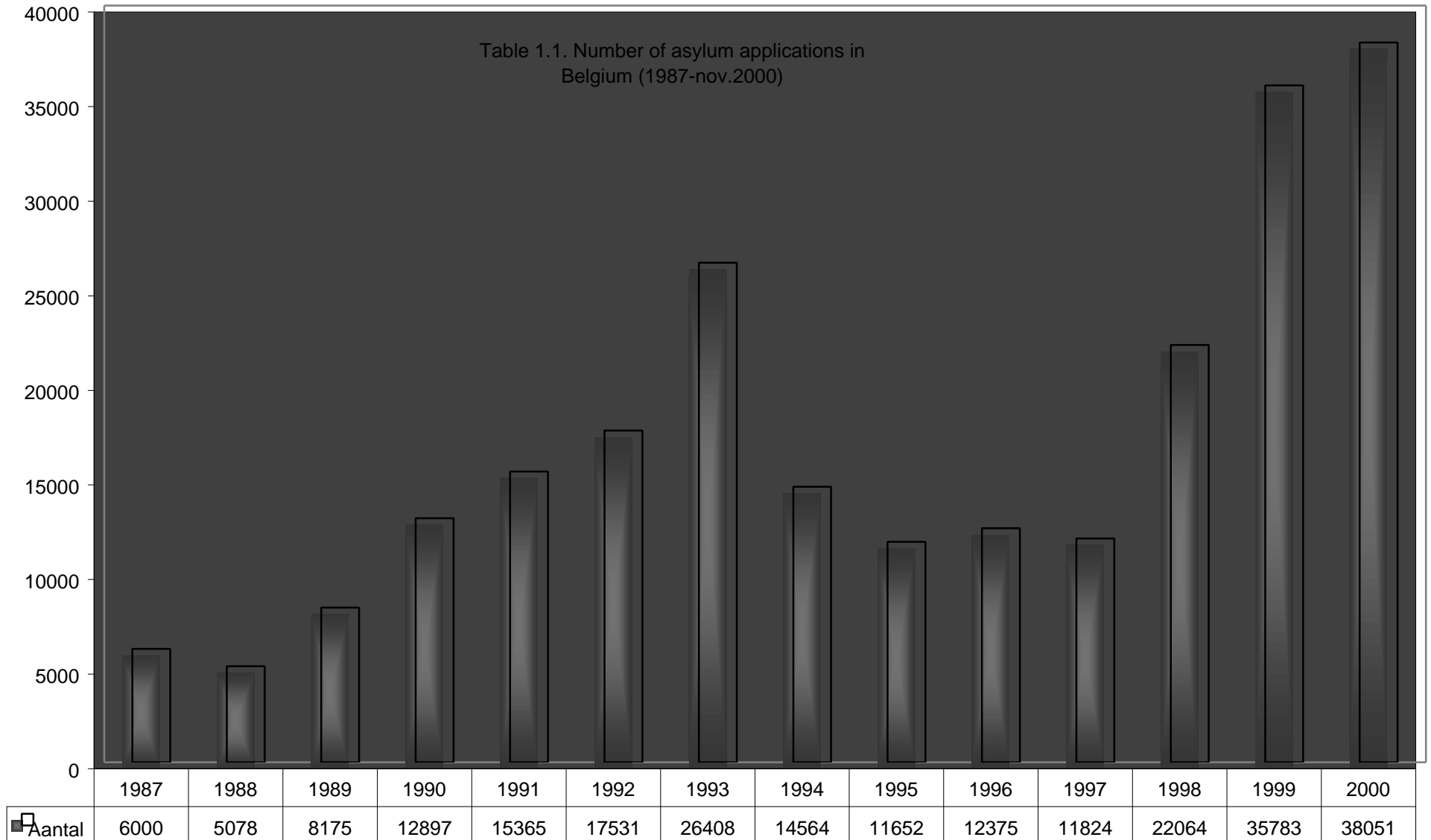


Table 1.2 Asylum seekers in Belgium by month (2000)

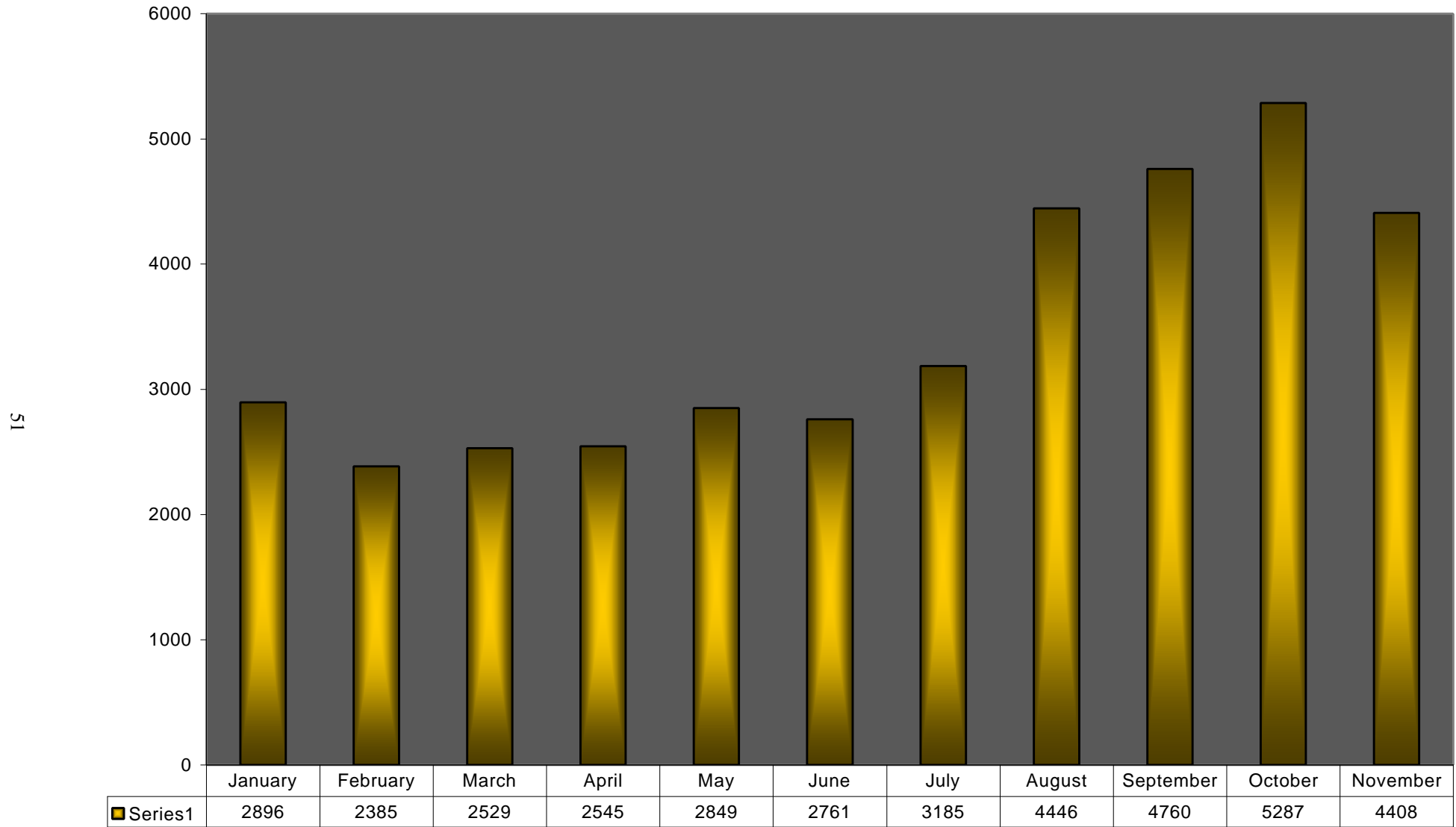


Table 2 UAM Asylum Seekers in the Period 1995-9/2000

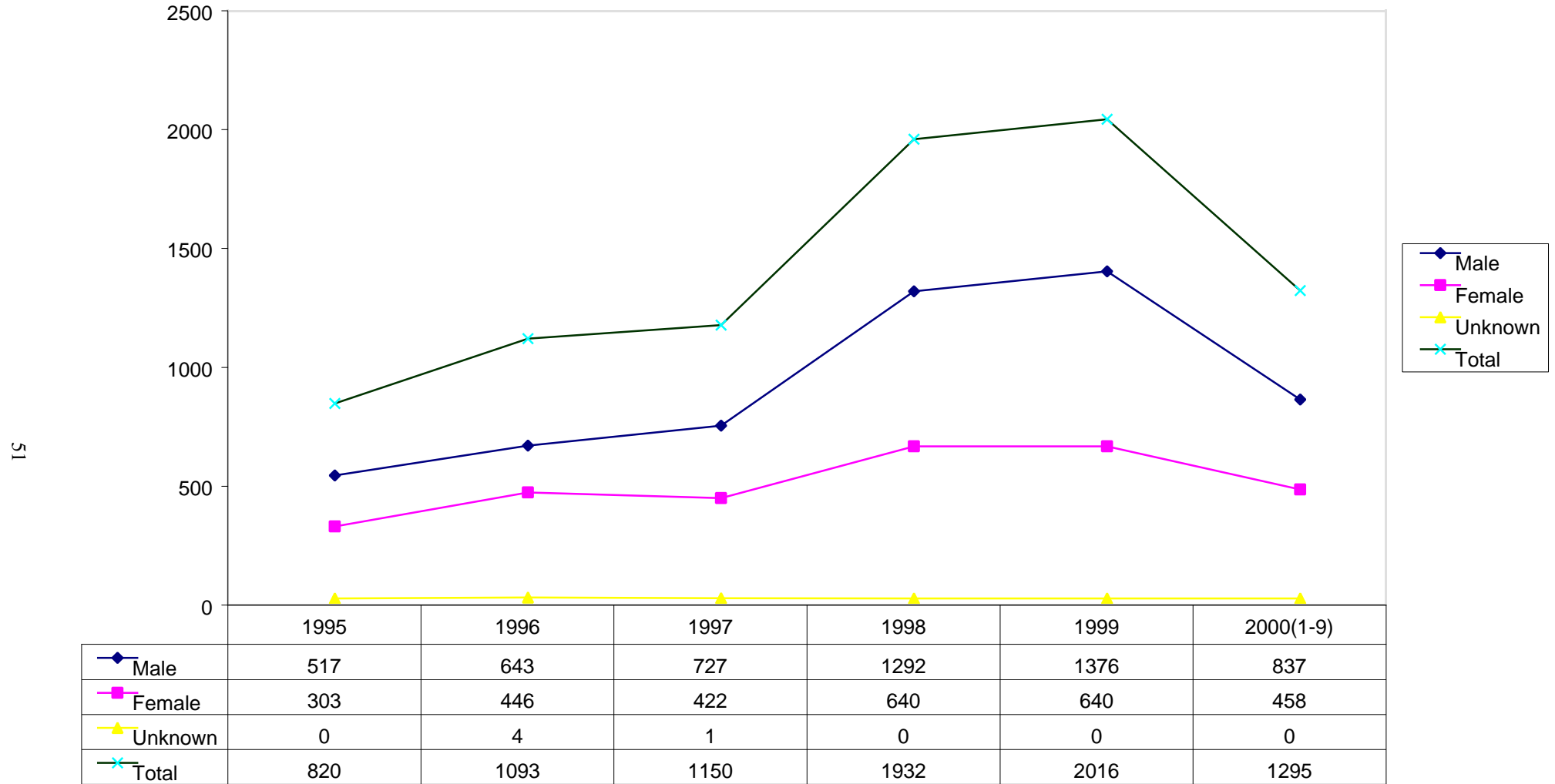


Table 3.1 1995 Top-Ten Countries of Origin of UAM Asylum Seekers

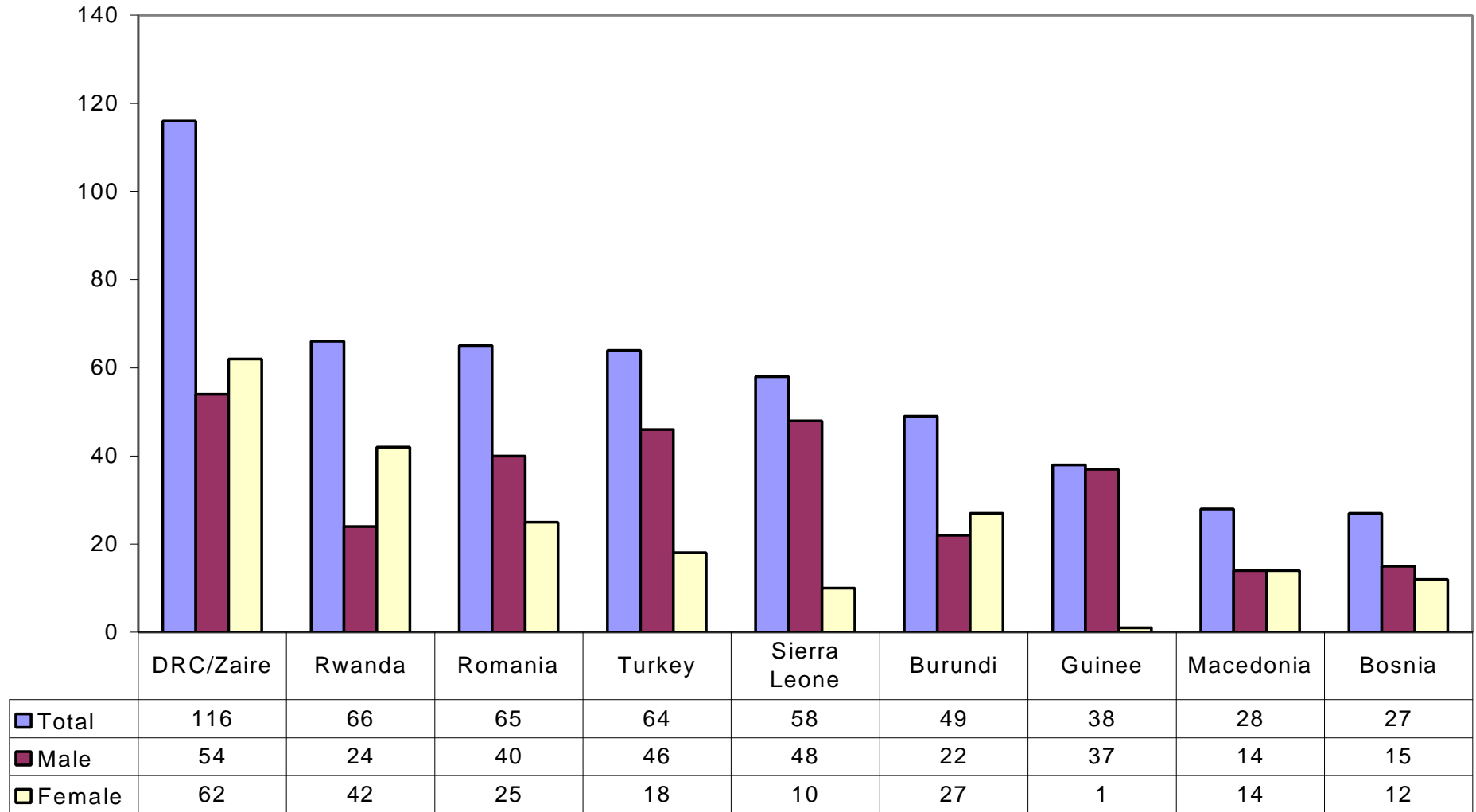


Table 3.2 1996 Top-Ten Countries of Origin of UAM Asylum Seekers

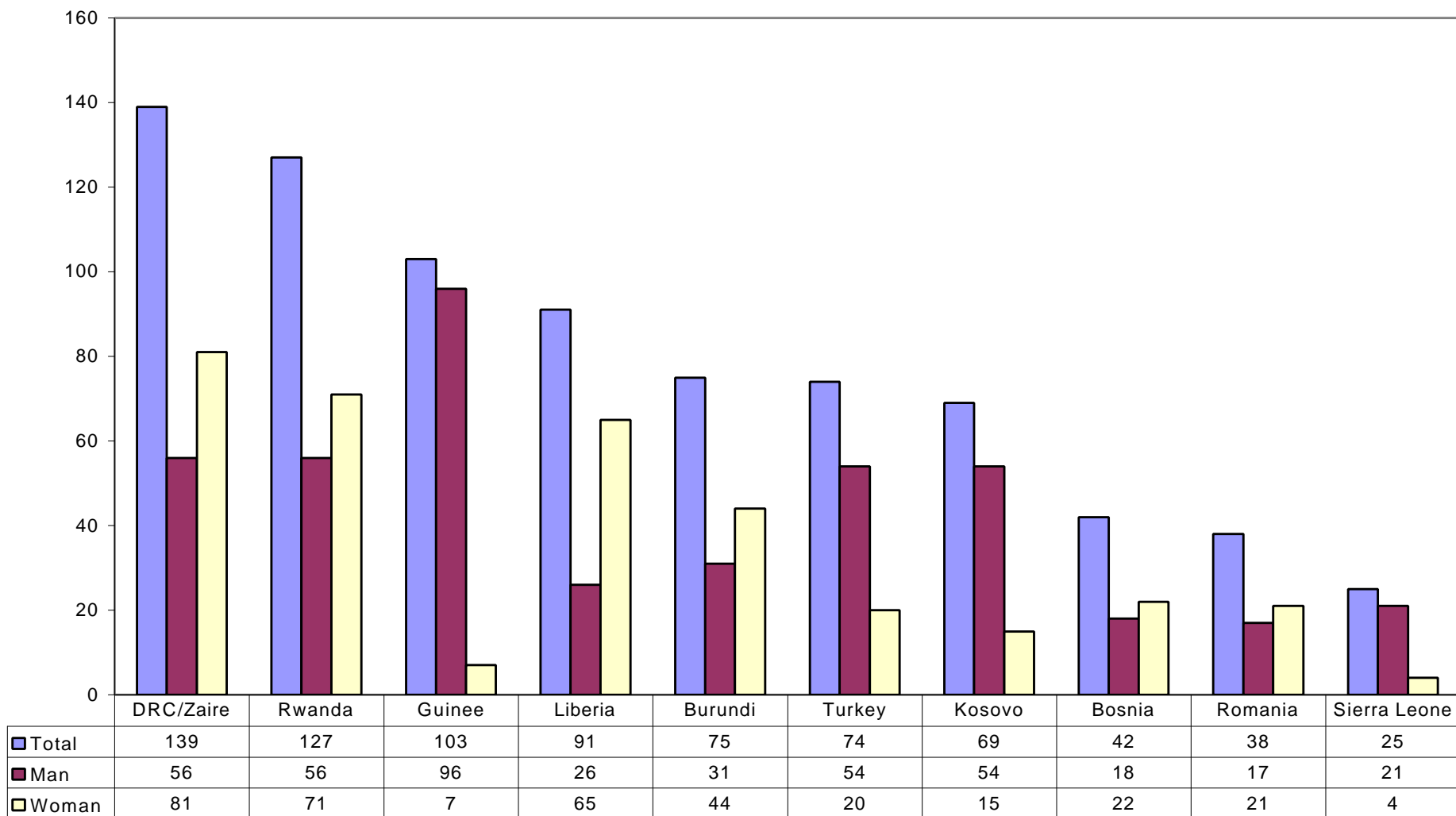


Table 3.3 1997 Top-Ten Countries of Origin of UAM Asylum Seekers

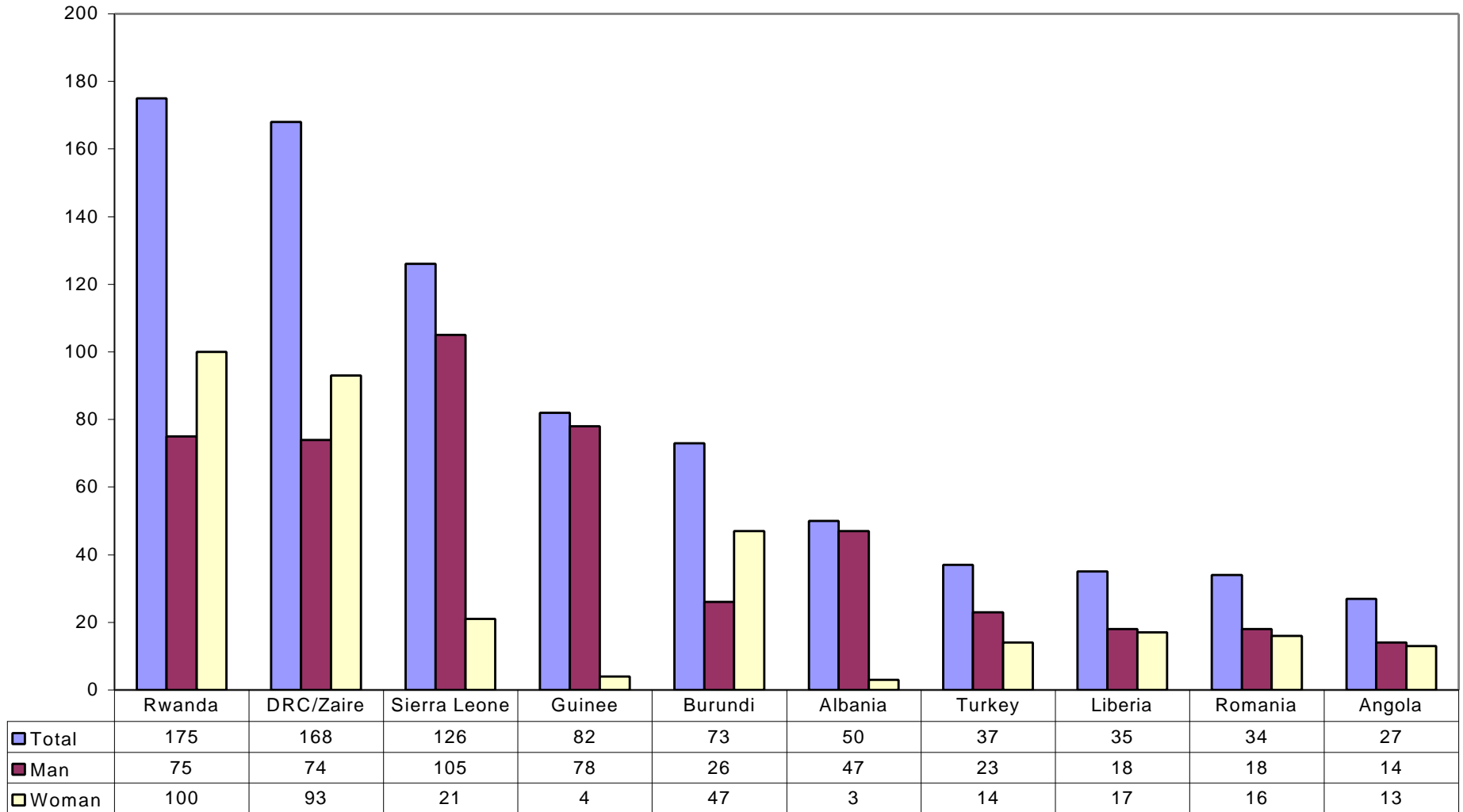


Table 3.4 1998 Top-Ten Countries of Origin of UAM Asylum Seekers

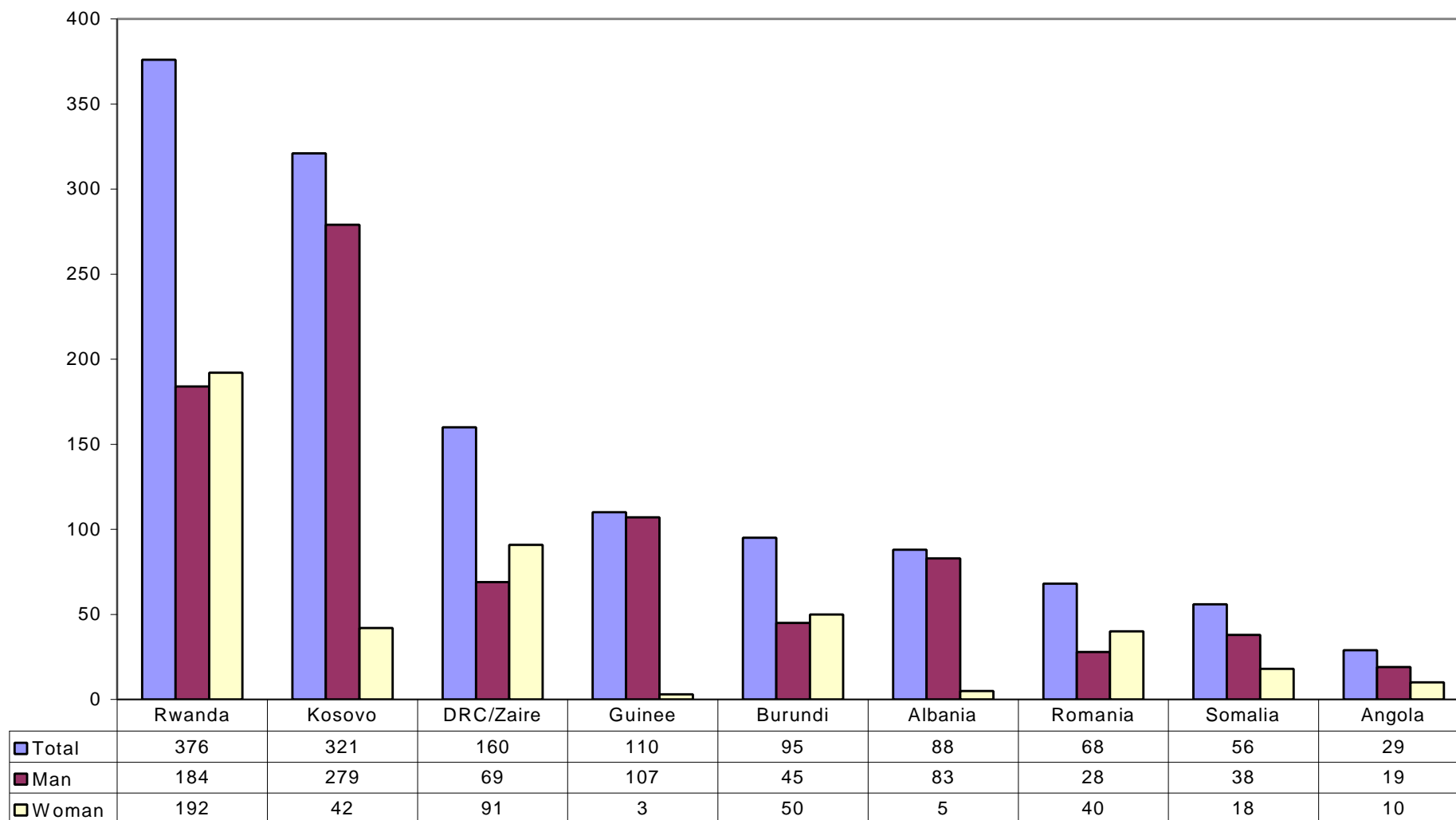


Table 3.5 1999 Top-Ten Countries of Origin of UAM Asylum Seekers

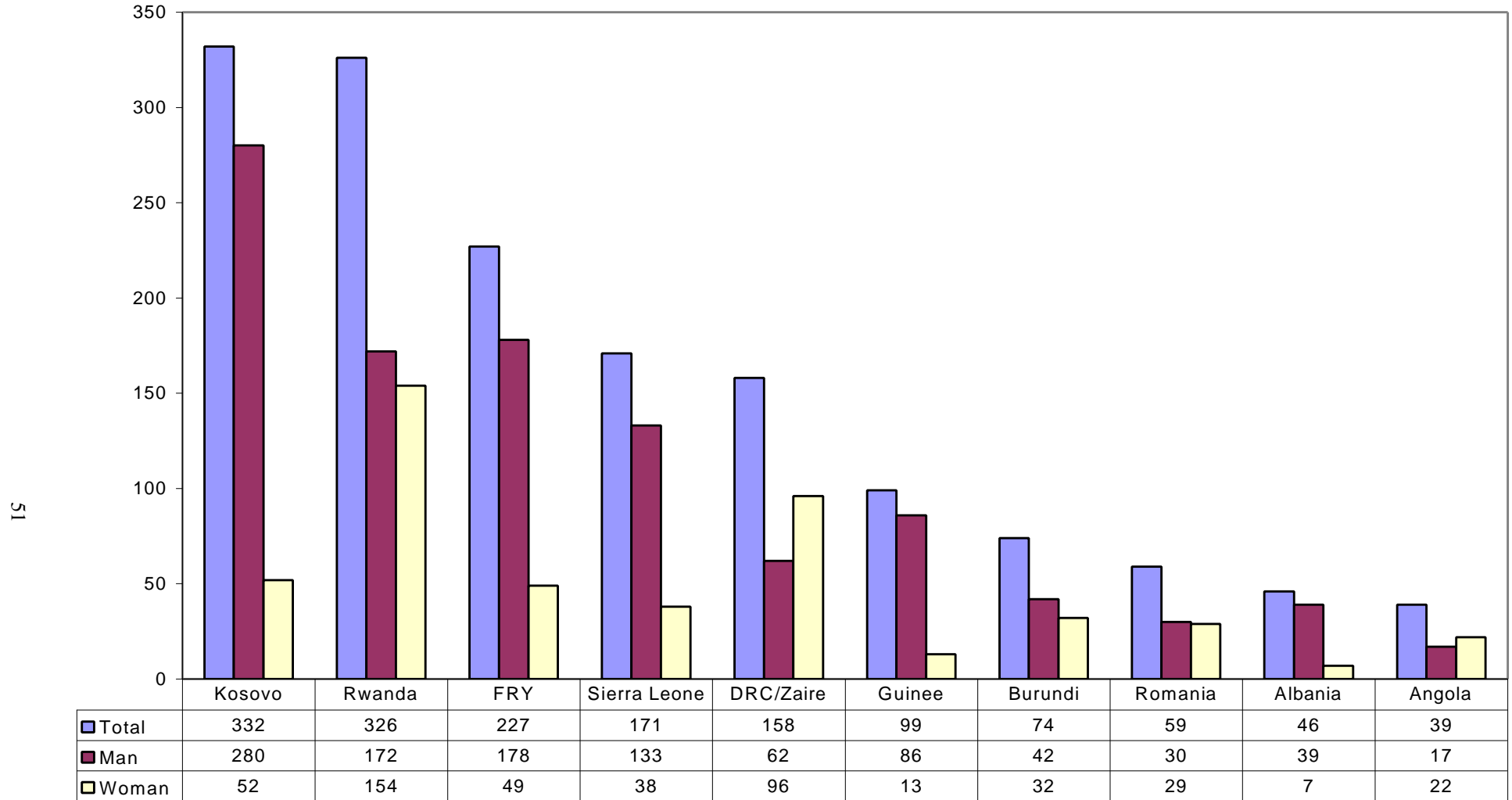


Table 3.6 2000 Top-Ten Countries of Origin of UAM Asylum Seekers (1/1/2000-31/9/2000)

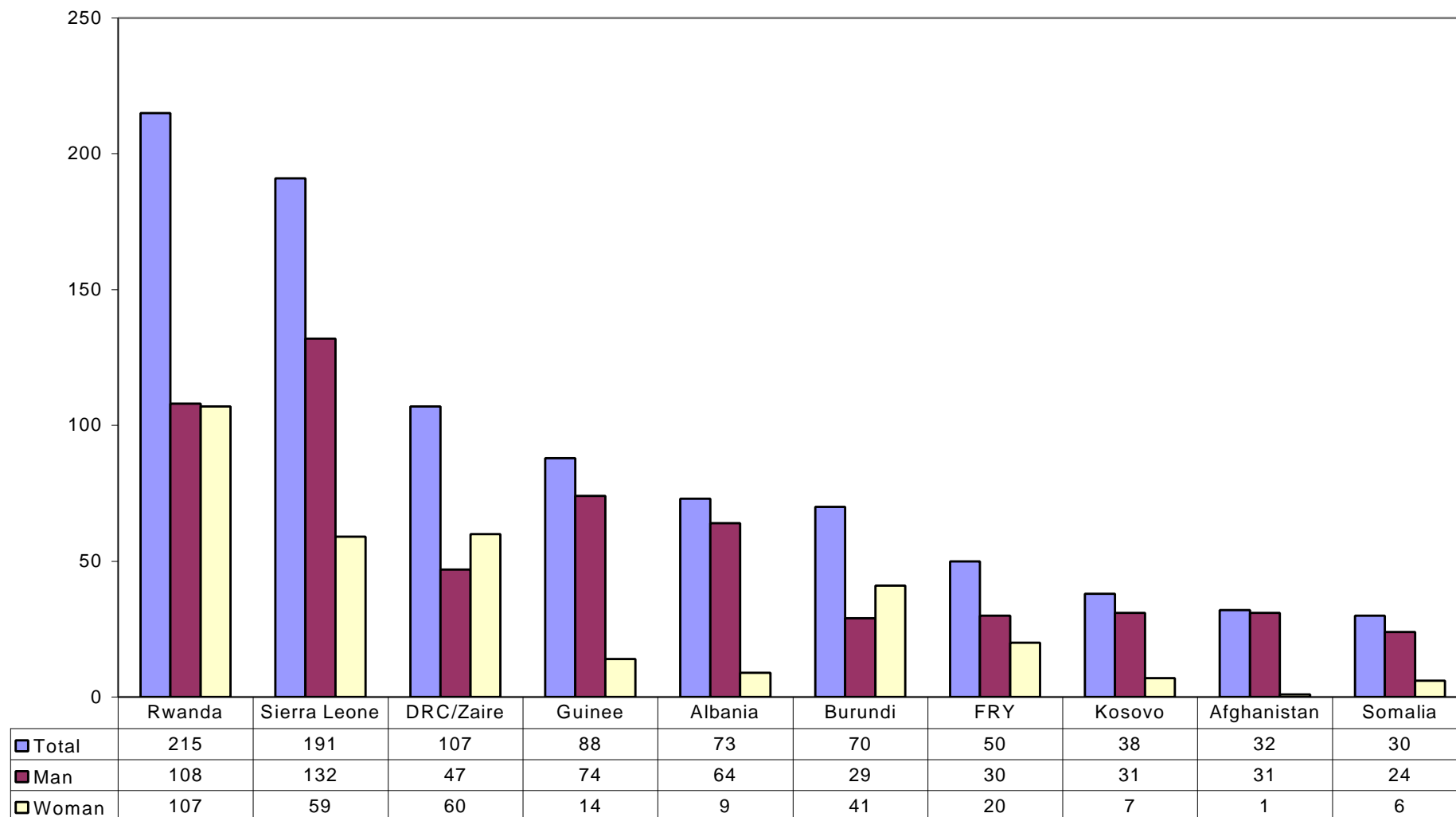
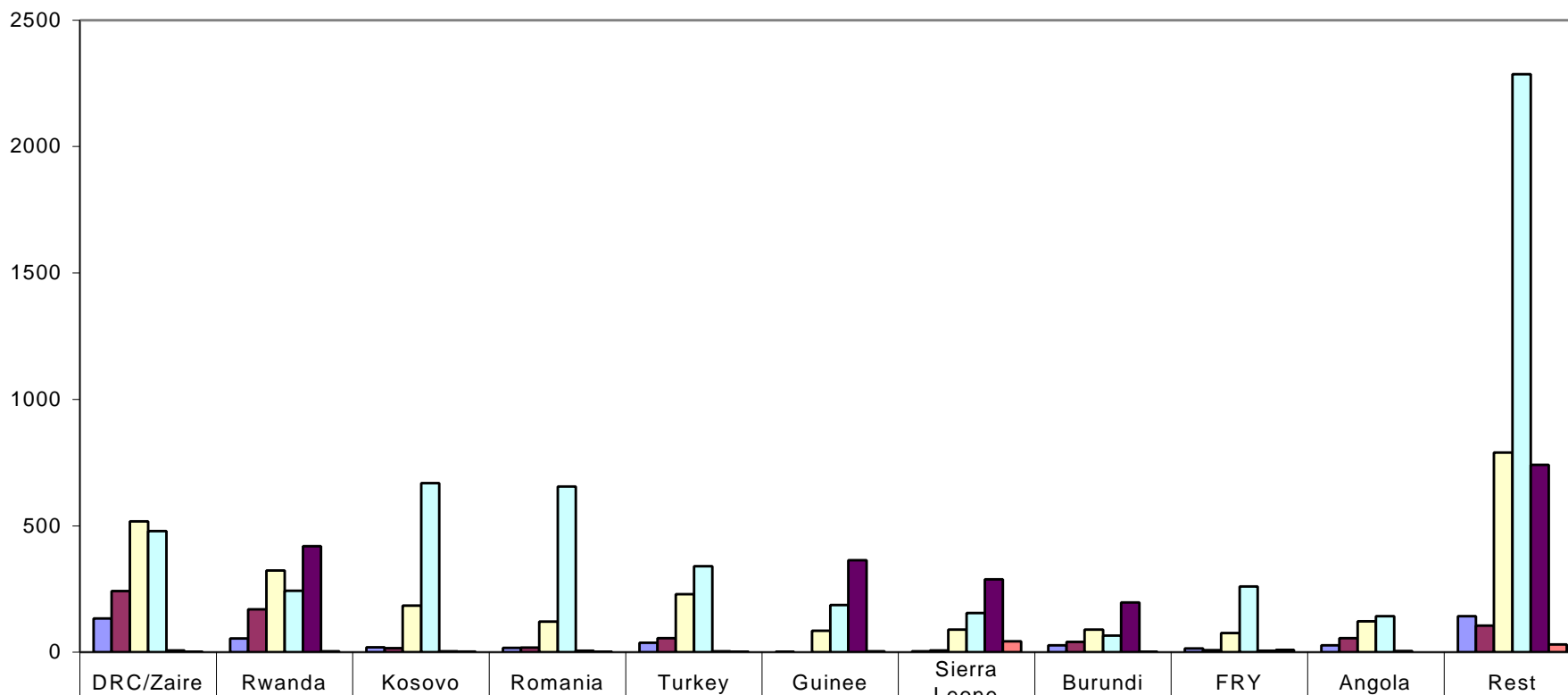


Table 4 Age Group of UAM Asylum Seekers in the Period 88-99 in Absolute Figures



	DRC/Zaire	Rwanda	Kosovo	Romania	Turkey	Guinee	Sierra Leone	Burundi	FRY	Angola	Rest
<5	133	54	19	17	37	1	4	27	14	27	143
>=5<10	242	170	15	18	55	0	7	41	8	55	105
>=10<16	517	324	184	121	230	85	90	90	75	122	789
>=16<18	479	243	668	655	340	187	154	66	260	142	2286
>=18	7	419	4	6	3	364	289	197	6	5	741
betwist	1	4	2	1	1	4	43	1	9	0	31

Table 5 Age Group of UAM Asylum Seekers in the Period 1988-99 in percentage

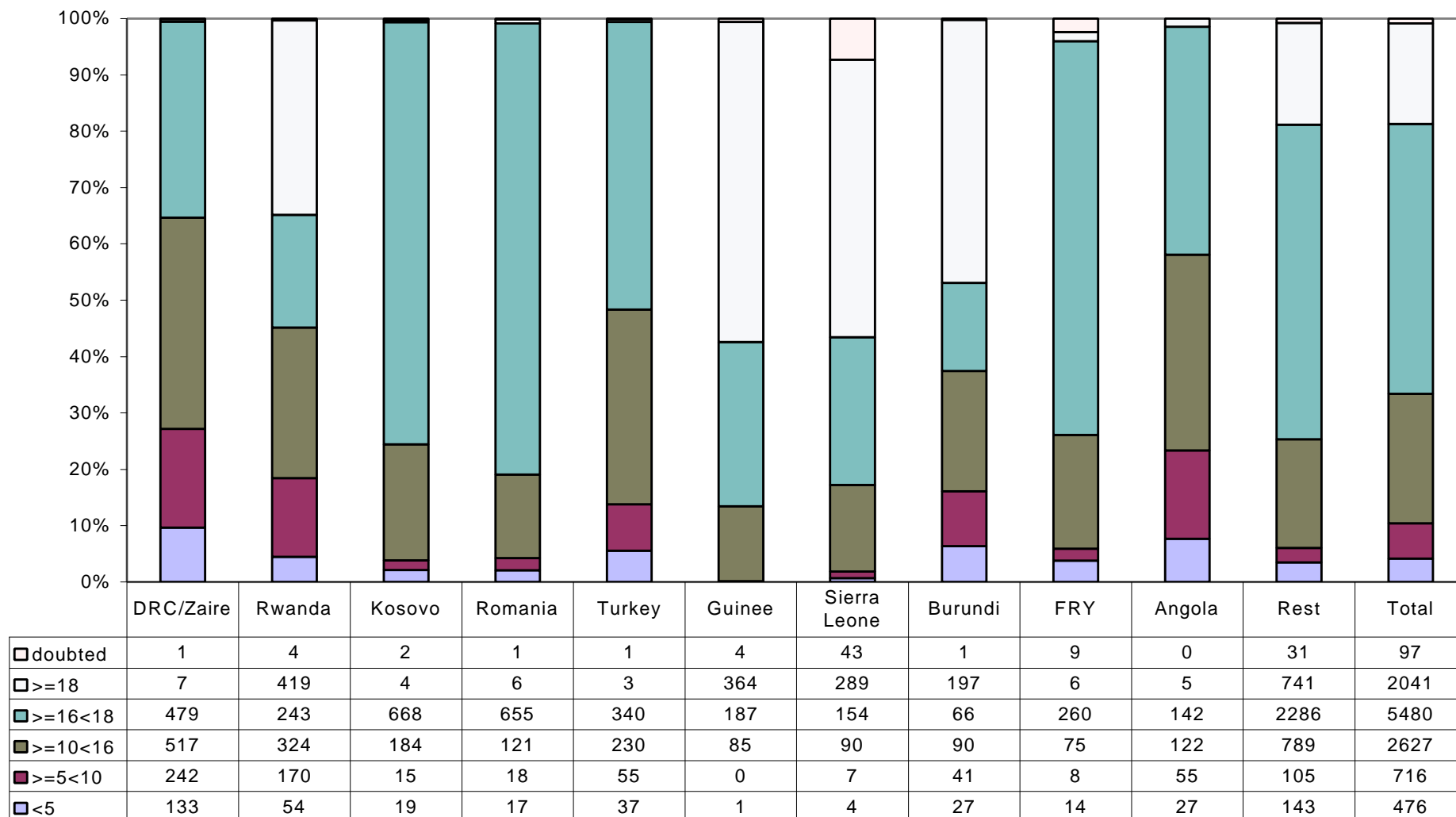


Table 6 Decisions granting asylum (1/2/1988-31/12/1999) on 31/7/2000

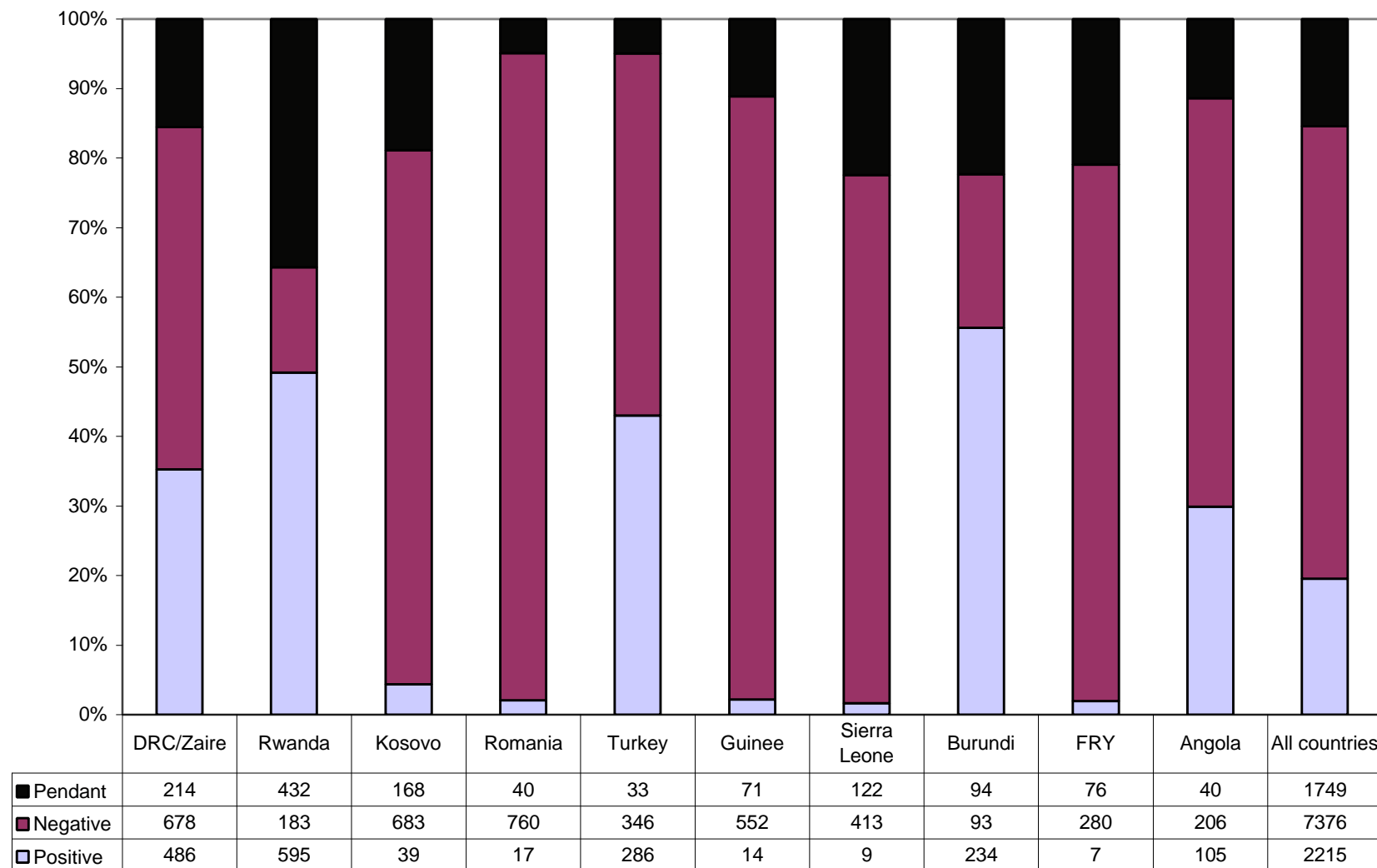


Table 7 UAM Asylum Seekers in 1999 registered by the Aliens Office

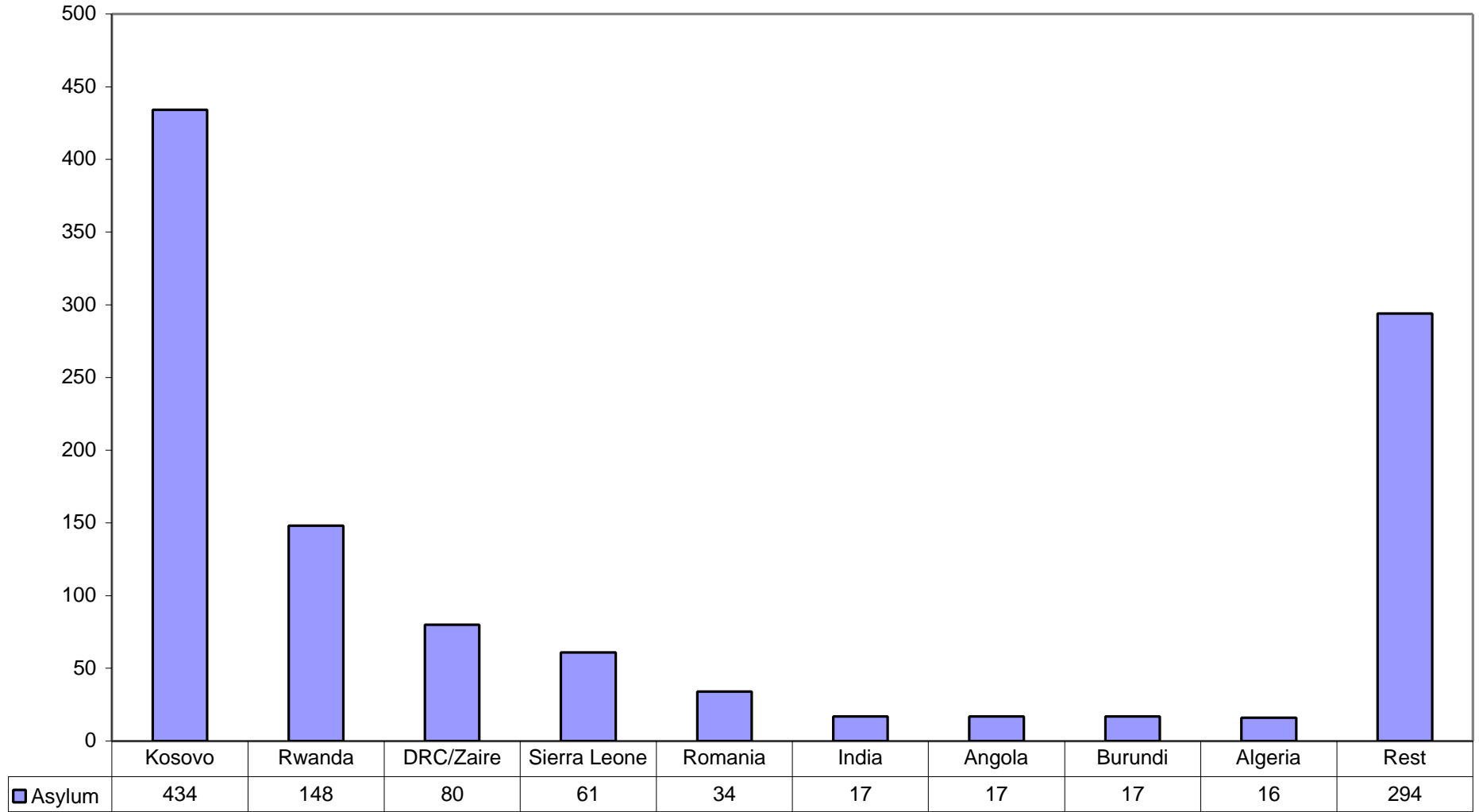


Table 8 UAM Non Asylum Seekers in 1999 registered by the Aliens Office

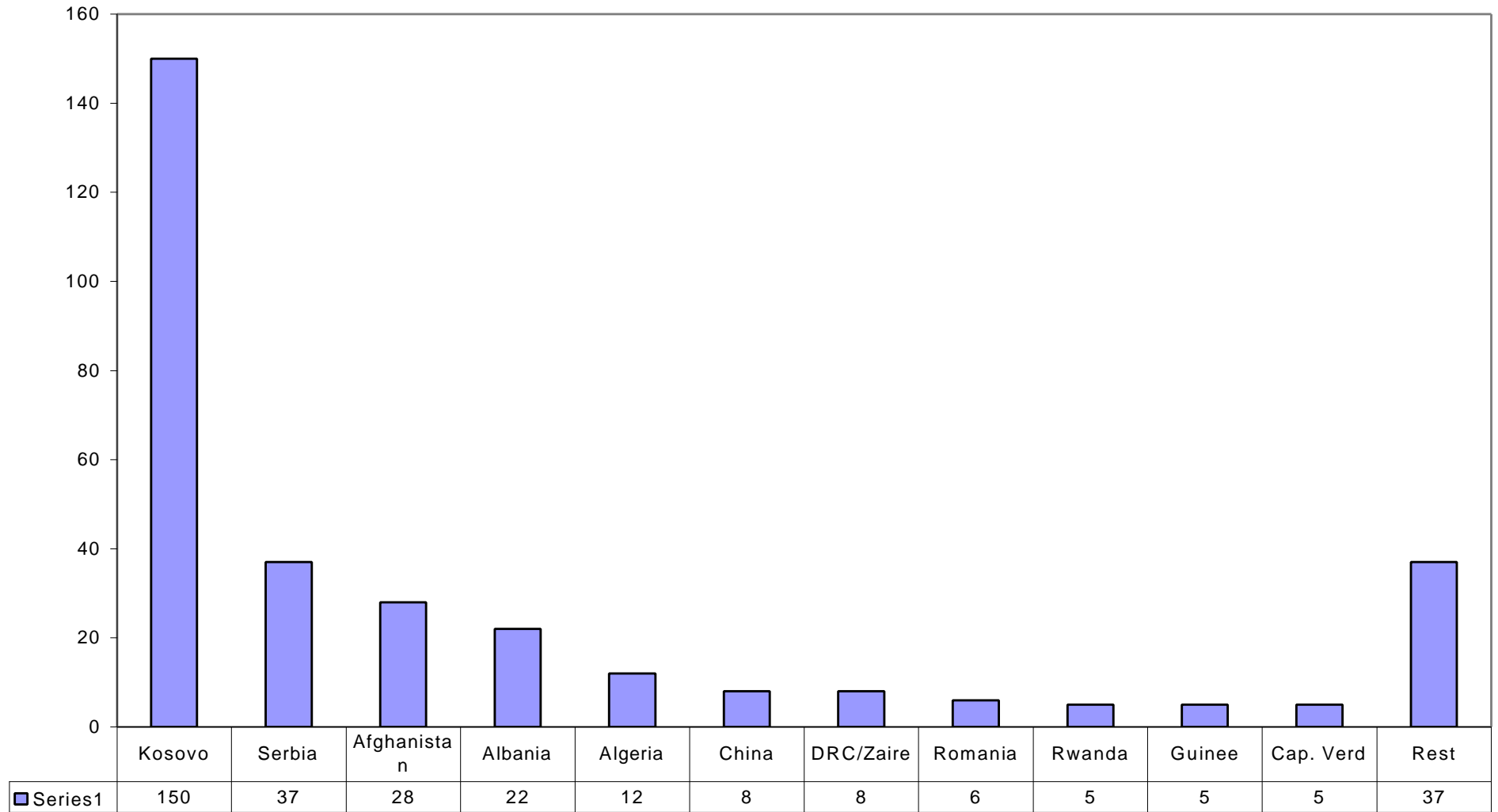


Table 9 Number and Region of Origin of UAM Asylum Seekers and Non-Asylum Seekers

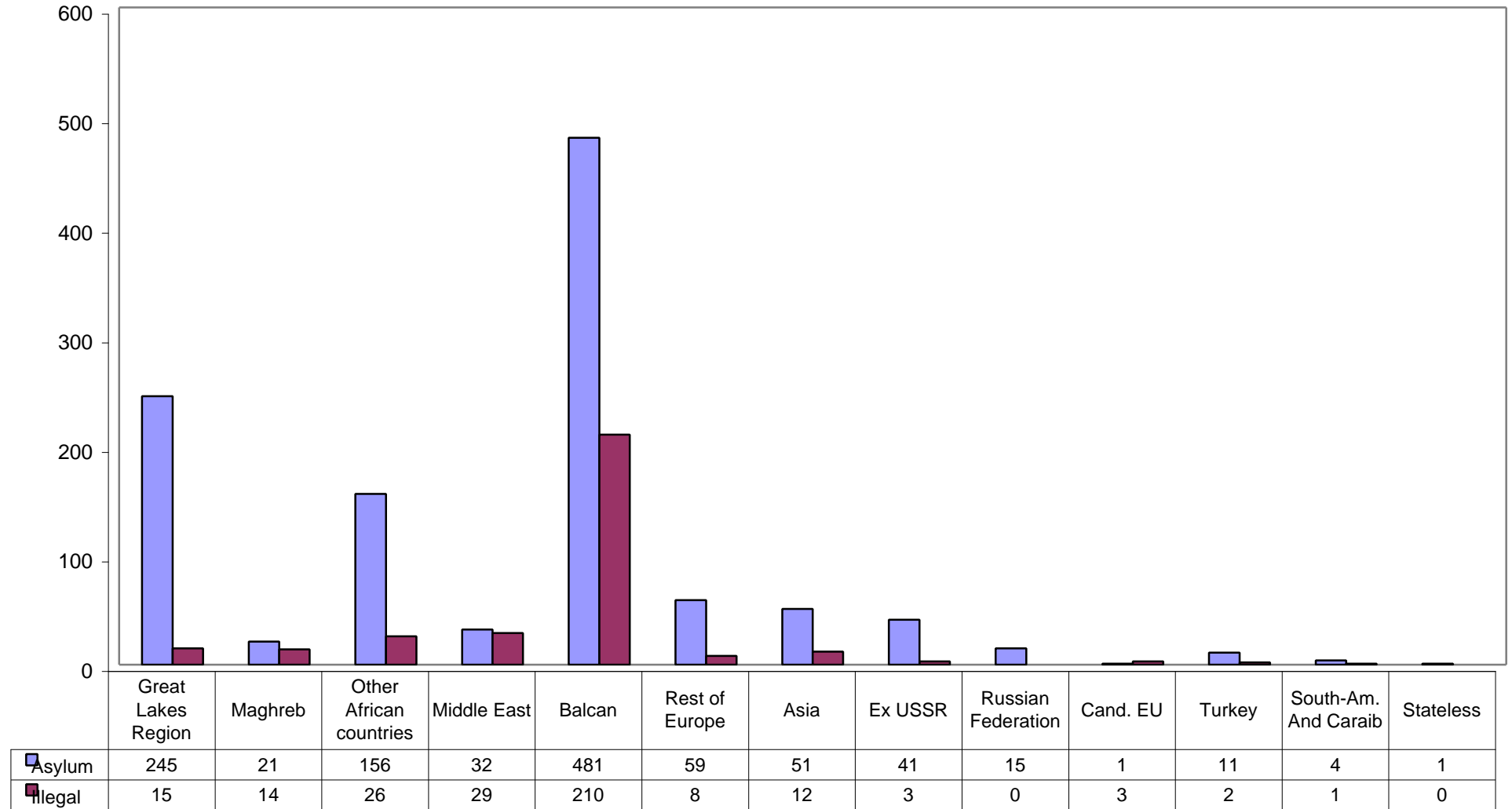


Table 12 Asylum seekers, minors and adults, who left the Centre of Kapellen in absolute figures

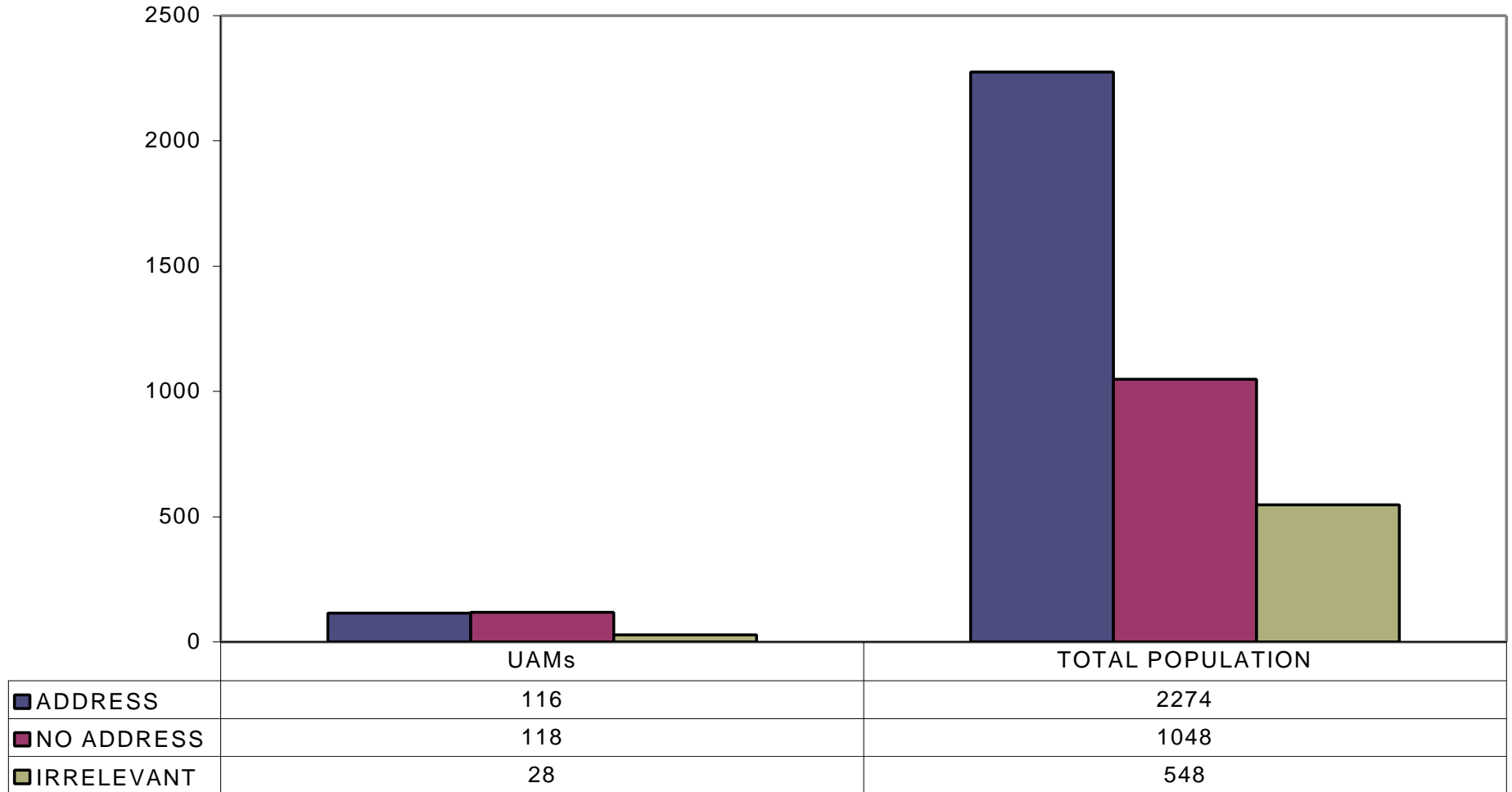


Table 13 Asylum seekers, minors and adults, who left the Centre of Kapellen in %

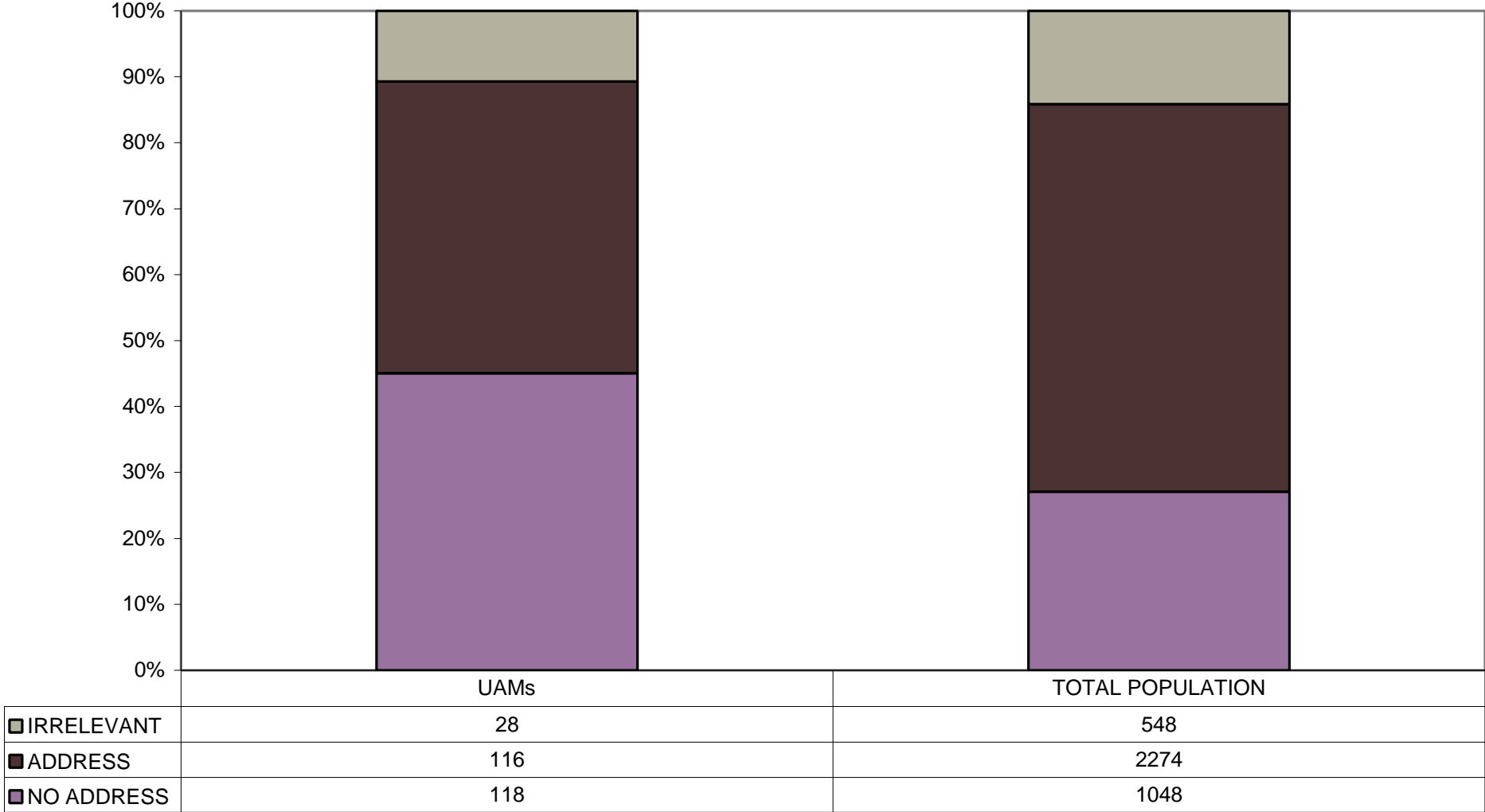
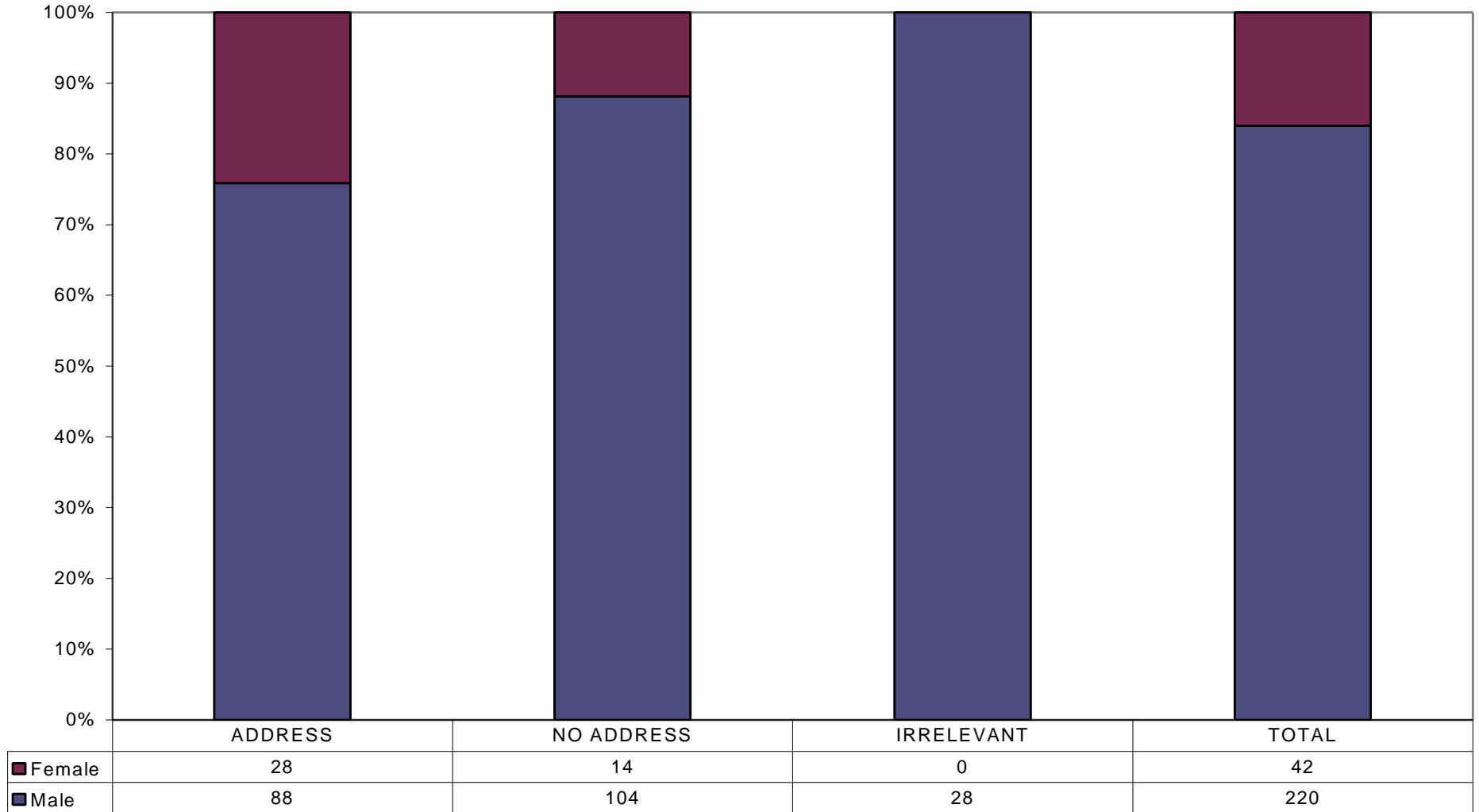


Table 14 UAM Asylum seekers who left the Centre of Kapellen by sex



GERMANY

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1. UNACCOMPANIED MINOR REFUGEES AND MIGRANTS AS VICTIMS OF CHILD TRAFFICKING

The number of cases involving the trafficking of unaccompanied minor refugees and migrants (UAMs) in Germany has risen sharply over the last 15 years as a result of the increase in incidents of criminal activity and statistics. The trafficking and exploitation of children and minors is exacerbated by the fact that traffickers can always find loopholes in the law.

There are strong indications that sexual exploitation of minors is on the increase. It is difficult to determine the exact number of incidents, but reports from non-governmental organisations suggest that this increase will continue for the next few years.

However, – and this may be the main weakness of this report – so far, social and child welfare authorities as well as independent welfare groups are seldom able to supply sufficient concrete information to support a prosecution. Nevertheless, it is evident from their reports that thousands of both legal and illegal immigrants are suffering from abuse and exploitation.

1.1 UNACCOMPANIED MINOR REFUGEES AND MIGRANTS

According to different estimates, there are at present between 5 000 and 10 000 UAMs living in Germany. Of this total, 90-95% are male. Despite repeated attempts to determine an accurate number – a study by the *Berliner Institut für Vergleichende Sozialforschung* (Berlin Institute for Comparative Social Research) identified approximately 6 100 minors in 1998 (BIVS [1] 2000) – results from different regions vary.

Nation-wide statistics do not exist because regional statistics are not entirely accurate. This is because local and regional authorities fail to report their results. Furthermore, some regional authorities only keep records of minors under 16 years of age, whereas others keep records of 16 and 17-year-olds. Moreover, the categories sometimes vary: some register only asylum-seekers while others register all unaccompanied minor refugees.

It is recognised that, geographically speaking, the largest proportion live in the major cities, such as Hamburg, Berlin, Munich (Bavaria) and Frankfurt (Hesse). Fewer UAMs live in other regions. The 1998 BIVS Study concludes that approximately 2 300 live in Berlin and 1 000 in Hamburg.

Although the number of unaccompanied minors entering Germany during the 1980s and mid 1990s rose consistently, a lower rise has been observed in the last five years. This could be due to the new Third Country Regulation of the *Asylverfahrensgesetz* (1993 Asylum Procedure Act), which also permits the sending of UAMs to a safe third country, as well as the stricter assessment of their age by the German authorities.

Some German states have experienced a rise in the number of UAMs. Saxony for example, received only 33 in 1997, compared with 62 by October 2000, while Bavaria received 200 in 1999 compared with 235 minors in 1993, and 139 in 1998. Overall, there is a decline in the numbers.

According to remarks made by the Speaker of the *Hamburger Einwohnerzentralamt* (Hamburg Central Residents' Registration Office) it is precisely because of the above-mentioned regulations that during the last few years far fewer UAMs have come to this state. While in 1993 about 1 616 UAMs entered the city (which boasts over a million inhabitants), the numbers decreased continually in the following years (1995: 1 031 / 1997: 396 / 1999: 332).

Today, according to the Registration Office's statement, about 500 UAMs are still living in Hamburg. At the end of 1992, before the introduction of the new legislation, there were almost 3,000 UAMs and at the end of 1994, there were approximately 2 300. Rhineland-Palatinate, the largest German state, reports that 338 UAMs had immigrated in 1996, 277 in 1998, but only 217 in 1999.

The *Internationale Sozialdienst* (International Social Service) observes that compared to 1998, the number of unaccompanied child refugees under 16 years of age was seen to be “ falling slightly” in 1999 (Internationaler Sozialdienst 1999).

Another reason for the decrease in the number of registered UAMs might be due to immigrants disappearing in order to live illegally in Germany. In the mid 1990s, Hamburg and Berlin reported an increase in the disappearance of UAMs and in 1994, the *Zentrale Aufnahmestelle für Asylsuchende* (Central Admission Agency for Asylum Seekers) in Berlin-Spandau registered among the refugees 1 354 unaccompanied minors, but only 1 205 arrived at the municipal first-reception facilities (Pollmann, 1995).

During the last few years, the state of Brandenburg has noted a high rate of missing persons among the UAMs. In 1997, the *zentrales Heim für alleinreisende jugendliche Flüchtlinge* (central home for unaccompanied minor refugees) in Fürstenwalde received 94 UAMs. In the same year, 60 of them were registered as missing persons. In 1999, 41 out of 95 of those admitted at the home were registered as missing persons. General statements on statistics relating to missing persons are not obtainable since hardly any state can provide the relevant information.

When questioned about the whereabouts of the missing adolescents, the public authorities are equally incapable of providing answers. According to the information provided by employees of youth institutions and first-care facilities, in some isolated cases some of the missing persons re-appear from time to time and get in touch with friends who are still officially in care. It is assumed that missing UAMs have moved to other German states, the major cities, or other European countries or have simply returned home.

1.2 THE COUNTRIES OF ORIGIN OF UNACCOMPANIED MINORS

The diversity of the countries of origin of unaccompanied minors in Germany has grown over the past 15 years. While in the middle of the 1980s, the UAMs mainly came from 5 to 10 different countries, this number has today grown to about 30. According to the International Social Service, in 1998 and 1999, the minors came mainly from Eastern European countries, i.e., Turkey, Yugoslavia, Romania, Moldavia and Ukraine and from African countries, i.e., Algeria, Ethiopia, Eritrea, Sudan, Guinea, Sierra Leone as well as from the Democratic Republic of Congo, and from Asian countries, i.e., Afghanistan, Armenia, Bangladesh, China, Sri Lanka, India, Pakistan and Mongolia. (Internationaler Sozialdienst, 1998 and 1999).

It is a well known fact that a large number of these minors come to Germany with the help of traffickers (networks) crossing the “frontier traversing open country”. In addition, some of these minors travel as stowaways on ships from their home country and arrive in cities such as Hamburg. There are also cases of minors arriving by plane and being left on their own and without the necessary papers in the transit area of airports. Most of these minors, however, are not allowed to stay in Germany for any length of time.

The main reasons for flight and migration to Germany are often long-lasting political crises, civil wars, conflicts on the grounds of religion, race or ethnic background as well as persecution or discrimination of minorities. Immigrants can also be driven by the death, disappearance or imprisonment of individual family members. The shattered families attempt to get their children, the weakest family members, to safety. One of the main reasons for fleeing is fear of military service. In Germany, this is often the case with Kurdish UAMs from Turkey.

During the last few years, serious social or socio-economic crises in the countries of origin have been emerging as reasons for migration. These crises have led to the destruction of familiar systems as well as to the dissolution of traditional means of socialisation. The weak or weakened, partly restructured or politically changed states are not in a position to counter-balance these problems through social networks and support measures. Examples of this can be found in Ukraine or Romania.

1.3 LEGAL STATUS, RECEPTION AND ACCOMMODATION

Under a number of international agreements and national laws, UAMs entering Germany should be legally protected. In reality, however, they are restricted in their development by national laws and stipulations. Experts speak of a “gap in protection” or “insufficient protection”, they even consider that refugee children in Germany are “only treated as children to a certain extent” (Jockenhövel-Schieke 1999, p. 516).

Protection is first offered by the *Grundgesetz* (German Constitution), the *Kinder- und Jugendhilfegesetz* (Children and Youth Welfare Law) as well as the agreements of the Geneva Convention on Refugees, the European Convention on Human Rights, The Hague Convention on the Protection of Juveniles, and the UN Convention on the Rights of the Child, all ratified by Germany. But since 1992, Article 22 of the Convention on the Rights of the Child has been restricted by an *Erklärung zur Niederlegung der Ratifizierungsurkunde* (Declaration on the Deposit of the Instrument of Ratification) through the former Federal Government and thus adapted to the German *Ausländergesetz* (Aliens Act) and the Asylum Procedure Act. According to these laws, minors between 16 and 17 years of age are in reality no longer protected by the Convention but are classified as adults and come under the nation-wide distribution proceedings. As such, they no longer enjoy the full protection offered by The Hague Convention on the Protection of Juveniles and the *Kinder- und Jugendschutzgesetz* (Protection of Children and Young Persons Act). Accommodated and treated like adults, some of them have neither the right to a guardian or to youth welfare.

For two areas relating to care, this age limit becomes the decisive criterion for all UAMs entering Germany. Since they often do not possess any identification documents, the authorities determine a fictitious age. This assessment is carried out during a clearing procedure initiated by the youth welfare department, in the framework of which the minors are accommodated for some weeks or months in a clearing or first-reception facility. A fictitious date of birth is determined by an X-ray

examination of the carpal bone and, now after vehement criticism of this procedure, increasingly, through an inspection by staff from the youth welfare department. However, according to the refugee organisations, the assessment of age is utterly arbitrary.

The clearing procedure also serves to find a guardian as well as suitable care and accommodation possibilities while the future residence status awaits clarification. Accommodation in a clearing facility should normally not exceed three months but in reality, the stay in the community accommodation might extend to 8 months. Furthermore, the equipment and educational services of the clearing facilities vary to a considerable degree. Language lessons are not always included and during this period, assistance for ocular or dental care is not always available (BIVS 2000(2), p. 6).

The establishment of a guardianship with a view to ensuring a better clarification of the “well-being of the child” also varies considerably and is unsatisfactory, according to welfare associations and refugee organisations. It is reported that children are often placed under the care of public guardians who, despite their excellent intentions, are overworked. In Berlin, there are cases where a public guardian is responsible for 200 to 300 wards. In 1999, an investigation by the United Nations Children's Fund, UNICEF, complained that wards were often informed exclusively by circulars and that important visits to the authorities were delayed (Angenendt 1999; Jockenhövel-Schiecke, 1999).

UNICEF also criticises the “insecure residence status”. As a rule, UAMs only obtain a “tolerance” permit, which means only a suspension of deportation rather than a right of residence. With this permit, the young refugees can only leave their district or state when an application has been filed. In addition, the tolerance permit, which is often issued for only 3 or 6 months, can be revoked by the Immigration Office.

Many carers in the first-care facilities and homes for young refugees complain that, under these circumstances, it is very difficult to motivate UAMs to adopt an orderly daily life and attend school. With a lot of commitment and the aid of private lessons in the individual residential facilities, the carers do their best to prepare the minors for attending state schools. Language lessons in other places are usually not possible due to budgetary constraints in the municipalities.

What makes things even harder for immigrant minors is that a painfully earned school education does not offer any prospects for the future. They are usually unable to start vocational training in Germany as few employers are ready to accept the insecure status of a tolerance residence permit. In addition, according to the German *Berufsbildungsgesetz* (Vocational Education Act) and the *Arbeitsförderungsgesetz* (Employment Promotion Act), foreign adolescents need a work permit and must prove that no German, EU citizen, long-time foreign resident or recognised asylum-seeker who could do the job has been found and passed over.

An application for asylum often makes little difference to the immigrant minor. “The reasons for unaccompanied refugee children fleeing – mostly resulting from the consequences of political persecution, war and civil war in the countries of origin – are not counted as political persecution”, says Helga Jockenhövel-Schiecke of observations made by the International Social Service (Jockenhövel-Schiecke 1999, p. 519). There is practically no recognition of asylum according to Article. 16a of the German Constitution and it is rare that deportation impediments are granted (the so-called “little asylum”).

In the past few years however, the *Bundesamt für die Anerkennung ausländischer Flüchtlinge* (Federal Office for the Recognition of Foreign Refugees) has adapted its interviewing process to suit children and juveniles, as a result of many years of pressure from refugee organisations. Refugee representatives repeatedly state that in many cases, minor refugees are still questioned without the presence of an advisor they trust. The analysis of deportation impediments does not give sufficient consideration to the fact that children are among the main victims of the desperate situation in their home countries (e.g. war). Some states, however, e.g., North Rhine-Westphalia, Lower Saxony or Hesse, handle these situations with more sensitivity.

Without a guardian and – according to statements made by refugee representatives – sometimes even without legal assistance, the 16 to 17 year-olds have to undertake their asylum procedures on their own. This is due to the fact that, according to the German Asylum Procedure Act, they are at that age unreservedly capable of acting like adults. Unfortunately, sometimes those who immigrate at the age of fifteen may, despite having the right to a guardian, be left to fend for themselves.

When UAMs have reached the age of 16 years, access to basic benefits may no longer be available in Germany. Sometimes accommodated in community residential facilities, those below the age of sixteen largely depend on the municipalities' financial support or aid from charity associations and free relief organisations, as far as educational and psychological care are concerned. At the age of sixteen, they may also be obliged to live in residential facilities for adults. According to the *Asylbewerberleistungsgesetz* (Asylum Seekers' Benefits Act), they have only limited rights to medical care. Assistance is only granted in the case of acute illness. Provision for treatment, such as dental care is not planned, and neither is psychotherapeutic care.

Refugee organisations complain that exceptions regarding accommodation are frequently made exclusively for female UAMs. Until their 18th birthday, UAMs have the right to be accommodated in youth welfare facilities. In well-founded cases (such as exceptional requirements relating to education), exceptions can also be made for male 16 and 17 year-olds.

Not all states evoke these regulations, however. In North Rhine-Westphalia (NRW), for example, the competent *Landschaftsverbände* Rhineland and Westfalen-Lippe (regional associations of the NRW municipalities and districts) expressly indicate that youth welfare for UAMs is granted usually until their 18th birthday, often even until their 21st birthday. "The Asylum Seekers' Benefits Act does not take precedence over youth welfare" is the attitude of the LV Rhineland. "We don't accommodate young people in temporary homes", adds the LV Westfalen-Lippe.

There are obvious gaps in the care provided in the major cities. These gaps are only counter-balanced – if at all – by the commitment of local refugee groups, charity associations or small independent social relief organisations. With mobile teams, counselling centres or residential facilities, these organisations aim to bridge the gaps. Refugees living together in small groups or sharing an apartment with young, single Germans are examples of the efforts made by associations, such as "Woge" in Hamburg and "WeGe ins Leben" in Berlin.

There are still problems as far as the official recognition of such supportive measures is concerned, although many state and municipal authorities are already working closely with independent relief organisations.

Provision of the type of aid that goes beyond what the state services provide for UAMs is often solely found in the major cities and is less common in rural areas. Taking into consideration the fact that minors are abused and exploited wherever they are, this kind of support is extremely important.

2. TRAFFICKING IN CHILDREN AND MINORS

The trafficking of UAMs with the intention of exploitation or abuse has been an issue in Germany but only sporadically during the last few years and the authors of this report believe, it is still widely considered to be of minor importance. The first signs of an increase in the level of trafficking of minors, mainly of very young children and infants from Asia or Africa to Germany, appeared as early as the 1980s with illegal adoptions. The opening of frontiers between the East and West, the breakdown of political, social and economic systems and the resultant social conflicts, has led to initial cases of trafficking in minors from Eastern Europe in addition to the trafficking in adult human beings (and in particular women). There are alarming incidents of such trafficking: the smuggling of young Eastern European girls to German brothels through prostitution rings, the exploitation of Romanian children as thieves in German cities, the exploitation of children of different nationalities as drug couriers, and especially of African girls as prostitutes. As yet however, no detailed analysis of all aspects of the phenomenon exists.

How this situation can exist in a modern society such as that of the Federal Republic of Germany is unimaginable. Information about child traffickers and the clandestine operators is unfortunately rare. News reports such as “An illegal ring involving children from Bulgarian homes has been exposed in Munich” appear only occasionally in the media. With this in mind, this report aims to collate information about possible child trafficking from documents (newspapers, Internet), findings and impressions of police and investigative authorities, aid organisations, care facilities and counselling centres. The basis for this was an intensive nation-wide investigation with interlocutors, primarily in the major cities of Germany. In addition, detailed meetings were held in Berlin, Hamburg and Cologne.

Questions were asked about the smuggling of minors from abroad to Germany for the purpose of abuse or exploitation for criminal acts, such as pick-pocketing, begging, assault, burglary and drug trafficking, as well as for sexual exploitation. Questions were asked about findings in the fields of trafficking in and smuggling of children. Prosecuting authorities were interviewed about preliminary investigations in this context. Indications about activities such as begging, stealing or sexual exploitation of groups of children, in which a criminal organisation is suspected to be involved, were collected.

Contacts were first established with all *Landeskriminalämter* (LKAs: Criminal State Investigations Departments), the *Bundeskriminalamt* (BKA: Federal Office of Criminal Investigations), Europol, certain police headquarters, the Ministries of the Interior as well as the Departments of the Interior of Hamburg, Bremen and Berlin. Moreover, certain social ministries and municipal social and youth welfare authorities were contacted. As regards NGOs, mainly aid projects that offer protection to women who had become victims of trafficking were approached. Certain child protection organisations and street youth projects were also included. Since trafficking in children and minors concerns in most cases UAMs, authorities dealing with refugees as well as refugee organisations and charities were asked to provide information.

The initial aim was to determine to what extent children are trafficked for the purpose of exploitation – begging, stealing, illegal employment or sexual exploitation. Where do these children come from? What is the extent of the phenomenon? What are the typical conditions experienced by the victims? What form of aid exists and what is still necessary and feasible? What framework conditions for extended assistance need to be created?

The results of this study are similar to the results of an investigation carried out in 2000 for the *Kinderhilfsorganisation* (child support organisation) and the Federal Ministry for the Family, Older Citizens, Women and Young People.

2.1 PROSECUTION OF CHILD TRAFFICKING

The German *Strafgesetzbuch* (Penal Code) outlaws “child trafficking” in Paragraph 236 of its new edition of 26 January 1998 and refers in subparagraph 1 to children who “have not yet reached the age of fourteen”. This definition of children goes back to a number of German laws. Thus for the *Gesetz zum Schutze der Jugend in der Öffentlichkeit* (Protection of Young Persons Act) in its latest version of 28.10.1994, a child is “a person who has not yet reached the age of fourteen; an adolescent is a person who has reached the age of fourteen, but not yet the age of eighteen”. In addition to this Act, Paragraph 7 of the 8 *Sozialgesetzbuch* (Social Security Code) “Kinder- und Jugendhilfe” (Children and Youth Welfare) defines citizens of up to and including the age of thirteen as children.

In contrast, the UN Convention on the Rights of the Child defines children as human beings who have not yet turned 19. For this age group, Article 9, Article 11 and explicitly Article 35 of the Convention outlaw child trafficking.

As far as the authors of this report know, there are no methods of assessing the nature of child trafficking. “The areas mentioned in the interviews – i.e. begging, stealing, illegal employment relationships and sexual exploitation of children – are not covered by the *Polizeiliche Kriminalstatistik* (Police Criminal Statistics)” according to information given by the state criminal investigations department of Thuringia. “Stealing and sexual exploitation are assessed if criminal acts as defined in the Penal Code are touched on. In the case of stealing, the suspects are assessed according to their age, sex, nationality, etc. The victims themselves are not assessed”. The Ministry of the Interior of the state of Baden-Württemberg states: “The offence of trafficking in children is not separately itemised in the police criminal statistics of the state of Baden-Württemberg but rather assessed under the generic term of ‘trafficking’”. There is a similar assessment in other states.

Criminal statistics currently provide information only about the number of persons sentenced in accordance with Paragraph 236 of the Penal Code. There are no indications about the ages or the number of the victims and detailed statistical data on this would be valuable. The information available is also quite varied. The *Hamburger Behörde für Inneres* (Hamburg Authority for the Interior) points out that “in Hamburg there are suspicions only in isolated cases and without any available proof” as regards foreign minors living there temporarily and who are targeted for the purposes of pick-pocketing, larceny by fraud, burglary, shoplifting or drug dealing, with a view to their conditional criminal liability. However, in the course of a private interview, a civil servant confirmed much more clearly that criminal organisations and “organised criminal activities” hide behind the minors but that so far no proof could be furnished.

Neither the Federal Office of Criminal Investigations and state criminal investigations departments of the states have any findings at their disposal. All state criminal investigations departments as well as certain police headquarters, among others those in Lower Bavaria/Upper Palatinate, Hanover, Berlin, Hamburg, Cologne, Kiel, Norderstedt, were contacted. Questions were asked about the smuggling of minors from abroad for the purpose of sexual exploitation and other forms of exploitation (assaults, begging, pick-pocketing or burglary) as well as about preliminary investigations in this context and information from past and present cases.

The answers were always the same: From time to time there are “individual cases”, but no reports or statistics about the victims of child trafficking are available. On the one hand, one could argue that perhaps cases of child trafficking are extremely rare. On the other hand, there are strong indications that knowledge of this phenomenon is rudimentary and structural deficits are common. Cases of child trafficking might have been split up into different offences, says a BKA staff member, “and in many cases this cannot be reconstructed”. For example, such cases may be hidden within the assessed criminal acts of trafficking, forgery of documents, smuggling, pimping and promotion of prostitution or larceny by fraud (concerning the offenders), or within offences against the passport regulations, illegal immigration or breaches of the law relating to foreign nationals (concerning the victims).

Reports edited by the Federal Office of Criminal Investigations and state criminal investigations departments on trafficking (BKA 1999 and LKA NRW 1999) provide initial information about child trafficking for the purpose of sexual exploitation. However, no detailed analysis of the situation of minors is available.

Only one police commission has made more detailed investigations into organised child trafficking, its main focus being on “Romanian organised crime”. After it was noted that in several German major cities the offences committed by Romanian minors had increased drastically, the *Berliner Landesschutzpolizei* (Berlin State Police Force Agency) founded the working commission “Romanian gang crime” in 1998 (AG RumBa). It detected loosely connected different sized networks of Romanian child traffickers. According to police reports, these traffickers are said to have smuggled about 250 children and juveniles from Romania to Germany by 1998 with the aim of using them as child thieves.

These children were bought from families in poor areas of North Eastern Romania. They were – after the traffickers had made flimsy promises to them – handed over to the traffickers by their families. The children were also recruited on the streets of Bucharest. In Romania, Ukraine and Poland, they were taught to be thieves and taken to Germany via different routes. Their first destination was mostly Berlin, but Stuttgart, Bonn, Cologne and Hamburg were also targeted. However, according to several investigative authorities, the number of such thieves has decreased. Staff at the AG RumBa point out that these activities have partly relocated to neighbouring countries such as Switzerland.

Prosecuting authorities know far less about the sexual exploitation of smuggled minors than, for instance, about the above-mentioned form of exploitation. One must pay attention to simple signs, since abused minors hardly ever turn themselves in. Time and again, there are suspicions about the sexual exploitation of Romanian and African minors, but hardly any cases that can be proven. If the abused victims inform certain parties whom they trust, there are innumerable problems for the police in gathering evidence.

2.2 REASONS, MECHANISMS AND FORMS OF CHILD TRAFFICKING

Staff of aid organisations, care facilities and counselling centres offers more concrete information about cases of trafficking of children or minors. “They are still coming”, says an employee of the department of advice and care of asylum applicants at the *Bezirksamt Hamburg-Mitte* (district agency of Hamburg-Mitte). Here, newly arrived minor refugees are taken care of. Although the situation has become less drastic, this employee suspects that the exploitation of Romanian children is still going on. In one case a 13-year-old Romanian girl is taken to a facility, but after having been given the admission papers, she disappears, probably due to pressure from people behind the scenes.

A number of informants of youth welfare departments and first-care facilities as well as public guardians in Hamburg and Berlin are convinced that Romanian minors are still being smuggled into the country. Adolescents report that deported children have re-appeared or that they have heard about more immigrants. Often, they say, the child traffickers move their activities to other German states or cities. There is, however, no corroborative evidence of this. From some cities selected by a sample survey (Frankfurt, Leipzig, Halle), there is no available information about the smuggling and exploitation of Romanian children.

In the cities of Hamburg and Berlin, there are indications that cases of child trafficking might also exist with minors of other nationalities. The Director of the Berlin clearing centre claims that a certain Lebanese family also uses children from Arab countries for drug trafficking. These children have been registered at the clearing centre but appear there only intermittently and do not respond to youth-specific offers. In Hamburg, employees of homes and youth welfare departments are convinced that Kurdish children have been smuggled into the country since the mid 1990s with the express intention of drug trafficking. Children, mainly those under 14 years of age, who are not criminally liable, have been trained by organised criminal networks to be heroin dealers.

The circumstances and the methods through which these minors come to Germany have yet to be systematically analysed. Due to the information given by many interlocutors, it is clear that these children almost exclusively come from poor, economically underdeveloped and/or conflict regions, such as Romania, Kurdistan, the NIS States or African countries. Most of them come from family structures that are breaking up or have already done so as a consequence of high unemployment, low wages, social insecurity, high conflict potential or child overpopulation. Often, the minors have experienced a high degree of violence, frustration or disappointment.

Some exceptions show that desolate social situations are not always the root of the problem. Some minors come from stable families or developed countries such as the Czech Republic or Slovakia. It cannot be assumed that all of these minors have not attended school regularly.

Because of their desperate social situation, these minors are easy prey for traffickers, child traffickers and smugglers. Certain factors in the countries of origin, such as corruption and relative tolerance of criminal acts, the decline of the public sector, and lengthy legislative procedures facilitate trafficking, child trafficking and smuggling practices. Moreover, organised crime meets with little resistance, thus contributing to the rising problem.

A Europol expert on organised crime (The Hague) speaks of up to 12 000 organised criminal groups in the Eastern European region. They use the services of members of a former national security

apparatus or recruit well-informed university graduates (such as computer scientists). Organised criminal groups secure their business by infiltrating the authorities and political groups. According to the Europol expert, the increase in trafficking is due to such groups. Since 1991, more than 500,000 women have come to Europe from the Ukraine alone, 100 000 of whom have been or are still working as prostitutes. Child traffickers can also rely on such networks.

In several documented cases, traffickers have equipped minors with false passports and have smuggled them into Germany through the Ukraine, Poland or Slovakia by pretending that the minors are their own children. In cases where it is not possible to enter a country without a visa, for example Germany, the route across the green border is used, and which the victims usually have to do unaccompanied. The procedure involves being taken to certain points along the border, obtaining information about secret paths and then being picked up again on the other side.

Police sources and NGOs have also recently disclosed that traffickers transport children and adolescents to Germany in secret but very dangerous narrow compartments in trucks, buses or train wagons. Middlemen sometimes arrange for them to be accommodated in third-class hotels, boarding houses or inconspicuous high-rise flats while others are taken directly to their final destination. Women can also immigrate as girlfriends of pimps. This practice is reported in cases of minors from African or Latin American countries are.

This information comes mainly from victims who have already reached their destination or via accounts given by others (e.g. victims' friends). However, in the border areas of the Federal Republic, little is known about the exact transition points or routes of child trafficking. None of the police authorities or state criminal investigations departments was able to make a statement on the matter, and the non-governmental organisations concerned also appear ill informed. The women's organisation "Belladonna" has a very good understanding of the border region between Brandenburg and Poland, and since 1990, has been offering aid and protection to victims of trafficking. Nevertheless, the organisation claims that it has only had to deal with two under-age victims during the past three years.

The LKA Bavaria also seems to have little information at its disposal, although here attention has been drawn to the escalating instances of sex tourism in the border regions near the Czech Republic. The 'KISS' project, which was established in the summer of 2000, looked specifically at reducing the number of offences committed against minors.

This problem is encountered on an even larger scale in the frontier region between Saxony and the Czech Republic, where the number of under-age victims of trafficking across the border is increasing drastically. "Karo", a street work project for sex workers, has reported that more and more children are being taken to Germany for a short period of time for the purpose of sexual exploitation. This has been observed in the areas of Karo around the Czech towns of As, Cheb, Kynsperk, Karlovy-Vary, Sokolov, Ostrov, Jachimov, and Stribo as well as the German towns of Plauen, Oelsnitz, Markneukirchen, Klingenthal and Bad Brambach. However, no exact figures are available. (For further information, see 2.3.2.)

Even after these inquiries, it is still unclear whether there are always well organised criminal networks and hierarchically structured gangs behind cases of child trafficking. Although organised crime undoubtedly plays a role, police investigators, care facilities, and aid organisations warn of the dangers of assuming that organised crime is at the heart of all trafficking. Their experiences suggest that it is not unusual for individuals, small criminal groups or occasional criminals to hold

minors. Such individuals and groups frequently control the minors' contact with family or friends, thus rendering detection extremely difficult.

2.3 EXPLOITATION OF CHILDREN

On a world-wide level, there are various motivations behind the trafficking of minors, often with begging or the exploitation of child labour in informal employment relationships as the main impetus. This research found, however, that this is not the case with Germany. Although there are suspicions that minors are transported to Germany for the purpose of labour exploitation in weekly markets or in fast-food outlets, there is no evidence to support these suspicions. Police investigations have drawn a blank. Also, youth authorities or independent relief organisations have not encountered any hard evidence of this taking place. Cases of child trafficking in Germany seem to concern almost exclusively the exploitation of minors for petty offences or for sexual exploitation.

2.3.1 Exploitation for Petty Offences such as Begging or Theft

Frequently, cases of child trafficking are connected with children (in particular from Romania) as thieves. Information regarding the people behind the scenes has existed since the middle of the 1990s after a series of investigations into a growing number of cases of pick-pocketing in Aachen, Düsseldorf, Bonn and Cologne. In 1997, the authorities exposed a ring of traffickers in the Cologne-Bonn region – centring on the famous Romanian boxer Eduard Stefi, who since retirement had worked as a diplomat at the Embassy of Romania in Germany. Stefi is said to run a trafficking business with his German wife under the guise of an export company. They are said to have rented or bought children below the age of criminal liability from families or homes in Northern and Eastern Romania and then brought them to Germany via the Ukraine and Poland. As juvenile thieves, these children had to reach a daily target of up to 2 000 Deutsch Marks. The best were then resold for several thousands of Deutsch Marks. (*Der Spiegel*, 14/1998; *Die Welt*, 18.08.1998)

Stuttgart, Hamburg and particularly the capital Berlin are also popular destinations for child traffickers. “The youngest reported case was eight years old, and most of the trafficked children were under the age of 14. They knew precisely how to behave”, says a high commissioner at the AG RumBa. The investigators quickly learned that well informed and organised traffickers were taking their victims (partly children of Roma (Gypsy) origin) from North Eastern Romania –, in particular from the towns of Iasi, Suceava or Bacau and the surrounding area. Street children or children with only loose family ties from Bucharest were also among their victims. The smugglers or child traffickers first pretend to be caring mentors such as teachers, employers and guardians. They pretend to care about the children's future. They offer the children a life of luxury in their home environment including clothing, visits to restaurants and discotheques, thus enhancing the status of the minors.

The AG RumBa has also found out that those who are not yet successful pickpockets or petty criminals are taught the business on their way to Germany in the transit countries of the Ukraine, Poland, Slovakia or the Czech Republic. Immigration is entirely official in most cases – the children are registered in the smugglers' passports as their own offspring. Only the German border is usually crossed by each child individually, met on the other side by a “welcomer”. Some of the children hide in train wagons, according to an employee of the *Jugendamt Hamburg-Mitte* (Youth Welfare Department Hamburg-Mitte). “They mention a hollow space below the roof where ten or twelve of them can hide.”

East Berlin is often the first destination. Here, according to a high commissioner at the AG RumBa, the gangs led by Romanians or Roma may also be assisted by Germans. For example, a German middleman may rent accommodation for the children or employ acquaintances to rent it for him... The bosses have also been known to arrange for the children to be housed in homes for asylum seekers. However, it remains difficult for these homes to keep control over the minors. "Most of the time they do not listen to the home staff", complains the manager of the Hoffmannstraße clearing centre. The minors cannot be won over by educational or leisure time offers. "These children are under enormous pressure", say social workers and teachers in facilities in Berlin and Hamburg. "They usually disappear early in the morning and return late in the evening. Only after three or four months do they slowly begin to come out of their shell".

On their stealing sprees, these children bring in up to 2 000 DM a day. 14 000 DM has been the highest sum acquired in a day on record so far, according to the AG RumBa. In groups of twos or threes, child thieves take customers by surprise in department stores, at markets or in supermarkets. "They also work under the supervision of adults", says an employee of a first-reception facility in Hamburg: "They leave in the company of two men. One goes ahead to check that the way is clear, whilst the other brings up the rear and ensures that the child does not run away." Those who refuse to steal and fail to escape can expect to be punished severely.

In the words of a high commissioner at the AG RumBa: "First there was the threat of being beaten up, then came actual torture with lit cigarettes or razor blades, and also the threat of using knives or firearms. The children were told that they would have to eat excrement or be raped – this last threat was aimed at boys as well as girls. We have seen some traces of maltreatment on the kids, such as old scars, injuries inflicted by razor blades, knives and small cuts on the upper and lower arms." A fleeing group of children were brought back by the bosses of the gang and tied up to heaters for several days. Psychological pressure is also prevalent. An employee of the youth care facility Woge in Hamburg tells of a Romanian boy who is dependent on a smuggler from his hometown. "The boy is constantly threatened by this man who keeps telling him that if he is no longer willing to work for him, he will pass on certain information to the authorities in Romania so that the boy's family gets into trouble."

Case 1

The minors are afraid of speaking about the people behind the scenes. This is certainly the case with sixteen-year-old M., who we met in a home in Hamburg. Speaking of the man who forced her to steal for months, she only says: "This man who threatened me is very big and strong. I got very scared when he looked at me. These people have a lot of power here, like the Mafia, and it is the same in Romania. There is nothing you can do against it." When M. was fifteen years old, her brother handed her over to a smuggler in Bucharest who pretended that he would take care of her in Germany. But from the beginning, M. had to steal for him in department stores or from markets. She was told she must not even think of running away. "He said he knew Hamburg and would find me anywhere, and that if I said anything to anybody I would be killed, if not here, then in Romania. This is what they tell all the kids they bring here and who steal for them."

During an inquiry into the situation of juvenile thieves in 1998 and 1999, a social worker learned that the girls who are not made to steal but have to look after the apartments suffer enormously. “For the young women, this means imprisonment and constant humiliation. Daily beatings, sexual abuse and rape by several people are commonplace. They are often forced into prostitution as well.” (Grez, 1999, p. 45)

However, there are no indications of such situations at the moment, according to the investigative authorities. The AG RumBa has extensive archived information about Romanian organised crime at its disposal, and since it has increased its efforts to track down the gang bosses, and, also with the assistance of other police authorities, put some in custody, the crime rate of these gangs has decreased. Today, reports of criminal activity of this nature tend to come more from Belgium, France and mainly from Switzerland. However, youth care facilities in Hamburg and Berlin still report of current cases but have a different explanation for this apparent decline. “They are still coming” several sources say. “They just don’t get caught as easily anymore”.

What kind of structure is behind this phenomenon? Does this structure consist of huge, hierarchically organised gangs or gang networks as is often suspected? Investigators and youth welfare representatives have serious doubts about this. It is true that they know about “information exchange” in Romania, where a description of the situation in Germany or about contacts among the gang bosses is provided. But when in 1999 there was a rumour of a nation-wide gang with business-like hierarchies, a Romanian youth contradicted this in a magazine article in *Die Stern* (42/1999): “All are small bosses with a maximum of one or two children and all have long since returned home. There is no Mafia.” A Europol expert agrees that the term “Mafia” is inappropriate in the context of the Eastern European states. In his opinion, “Eastern European Organised Crime” is a specific form of organised crime that does not fit into Western European definition patterns. He concludes “There is not necessarily a hierarchically organised structure in the background.”

2.3.2 Sexual Exploitation of Unaccompanied Minors

According to this research’s findings, no precise figures are available regarding child trafficking for the purpose of sexual exploitation. However, youth care facilities have no doubt that Romanian girls are being forced to work as prostitutes. “Sometimes they go out very stylishly dressed and heavily made-up”, says a Hamburg public guardian. “And when they come back, they take a lot of showers. These are clear signs”. “The girls are very reserved”, reports an employee of the first-care facility Maienweg in Hamburg. The home staff rarely learn any details. However, children and adolescents from other countries are also transported to Germany for the purpose of sexual exploitation. The same employee reports that during the last two years, her facility has housed two West African girls who had been taken there by clients of prostitutes.

However, these cases are assessed within the criminal act of “Trafficking in women”, rather than as separate statistics relating to minors, according to information from several youth care and aid facilities. This information is confirmed by a BKA report on trafficking and trafficking in women. Among the registered victims are minors between 14 and 17 years of age. According to the BKA, 27 minors were picked up in 1999 during raids and other police activities as opposed to 1995, when the total was 107 (BKA, 1999, p. 8). The report therefore concludes that the number of victims is decreasing, suggesting that the phenomenon of child trafficking in the field of sexual exploitation is decreasing too. However, the BKA also suggests that insufficient staffing of the relevant commissioners' departments is responsible, as it “does not allow for adequate prosecution for the offence of trafficking” (BKA, 1999, p. 4).

There are others who subscribe to this point of view, such as the police headquarters in Bielefeld. The police commissioner responsible for investigating crimes of violence against girls and women believes that many police stations, especially those in rural areas, are under-staffed. Units set up specifically to investigate sexual offences do not exist. A representative of the Ministry for Women in North Rhine-Westphalia, who deals with the combating of trafficking in women and children, thinks that the known cases of trafficking in women and children are “only the tip of the iceberg”. To underline her point of view, she cites the situation in Saarland: “In 1995, this state had quite low numbers of victims as far as trafficking in women was concerned. A commission was set up specifically to target this kind of offence and thus more raids were carried out. Suddenly the number of victims increased fivefold.”

Is it still possible to speak of isolated cases? In its report “Situation of trafficking in 1999”, the LKA North Rhine-Westphalia comes to the following conclusion: “The proportion of victims under 18 years of age was only 4% (1998: 6%). For the first time, no victims below the age of 16 were reported. These numbers corroborate those of recent years. As minors are protected by special legal regulations in Germany, suspects obviously avoid the higher risks involved in forcing minors into prostitution.” (Landeskriminalamt NRW, 1999, p. 26)

Other sources of information, however, fly in the face of such a conclusion. According to many counselling centres, the statistics about victims only reflect the small known part of the phenomenon and they often cover only the Eastern European countries: Ukraine, Poland, Russia, Lithuania, the Czech Republic, Belorussia, Hungary, Bulgaria, Slovakia or Latvia. According to other sources of information, the victims come from a far wider range of countries.

Inquiries carried out by the Dutch section of “Terre des Hommes” in several of the country’s towns have shown that 300 to 400 girls from Nigeria work as prostitutes. In addition, about 400 young women and girls from Nigeria, Liberia, Sierra Leone and Sudan are said to have disappeared from refugee centres in the Netherlands during the past three years. Terre des Hommes (NL) suspect that some of them have been exploited as young prostitutes. Some of these girls might have been transported to Belgium (Antwerp) and Germany (Hamburg).

There is more evidence to reinforce this suspicion: Female minors, who have been trafficked for the purpose of sexual exploitation, have repeatedly been imprisoned in the Justizvollzugsanstalt Neuss prison (which is well known as a deportation centre). The Cologne counselling centre “Agisra,” (a group working to combat international sexual and racial exploitation), which is in constant contact with Neuss prison, is aware of cases involving the trafficking in girls from African countries as well as from Poland, the Czech Republic and the NIS states. “They are lured to Germany by the promise of vocational training or a job”, says an employee. Hardly any of these girls are able to provide information about how they have come here or about the smugglers. They often do not even know that they have been sold. Agisra complains that nothing is known of many women and girls. “They are deported without us knowing anything”, says an Agisra employee, although in accordance with the law in some German states, such counselling centres for victims of trafficking in women are required to be contacted in cases of impending deportations.

The criminals are not necessarily linked to Mafia-like structures. The Agisra employee comments: “There are different mechanisms. There is certainly an area where their business is organised in a very sophisticated way, but it might also be one or two men who are responsible for the transfer and have contacts with one or two clubs or brothels. There are also individuals who try this completely

on their own". The *Mitternachtsmission* (Midnight Mission) in Dortmund, which counsels and supports prostitutes and victims of trafficking, confirms this.

How many of the victims of trafficking in women are actually under-age? It is difficult to provide an accurate answer to this question, as a number of counselling centres are not able to give any information or know of very few cases. However the Midnight Mission knows that, in the past few years, not only women but, to an increasing degree, minors from Eastern Europe, have also appeared in the region around Dortmund, more so than in other regions in North Rhine-Westphalia. "It is obvious that the number of minors is growing", says a Midnight Mission employee. "The youngest girl with whom we were in contact was 14 years old and had come to Germany when she was just 11." Frequently the girls had been approached in their countries of origin in discotheques or other meeting places for young people. They were lured by compatriots with promises, such as "We will take you to Germany. Life is much better there."

Here the minors are then imprisoned in apartments and sold to pimps. The brothels, where they have been arrested during police raids, are owned by Germans, Turks or Albanians. According to BKA statistics, 38.9 % of traffickers in women are Germans, and 15.3 % are Turks.

Case 2

One of the victims picked up during such a police raid is 15 year-old V. The young Latvian girl was handed over to the Dortmund Midnight Mission. During a party in her home country, she was kidnapped, then severely abused and repeatedly raped in a guarded house in Germany. After three months, the police found her in a physically and psychologically desperate state. V. is pregnant, suffers from a serious infection and depression. She is prone to cutting herself and thinks she must now be a prostitute forever. She is also afraid to return to her village, as she fears that the traffickers could find her there.

Several projects relating to the welfare of women tell similar stories. The organisation "Solwodi" in the Rhineland-Palatinate claims that the average age of the women being trafficked is constantly decreasing and that minors are involved: "During the recruitment in discotheques or model agencies, the traffickers lure them with the prospect of serious jobs or a holiday trip". The traffickers often try to pass the minors off as adults in Germany.

Case 3

15 year-old girl B from Nigeria was recognised as a minor only after the third raid on a brothel. The owners of the brothel had her registered under a false passport as a 21 year-old prostitute. The girl was recruited in Nigeria as a maid for a family.

The trade is not necessarily limited to girls. The high commissioner for criminal investigations from the police headquarters in Frankfurt/Main reports that during the past few years, among the 500 adolescent prostitutes in the city, there have also been boys from the Czech Republic, Poland or Romania who were victims of traffickers. Some of them were later sold to networks in Amsterdam. Recently, however, no new cases have been reported.

2.3.3 Child Trafficking and Child Pornography

It is not only the trade in older children and adolescents that is growing. The scandals regarding a Mafia group of Belgian, Dutch and German traffickers have made it very clear that trafficking in younger children and also small children for the purpose of sexual abuse is no longer limited to isolated cases. The contact and information centre “Zartbitter” in Cologne regularly deals with such cases (according to their own statements, every two to three months).

A new method practised by the traffickers and/or paedophiles is the adoption of the children. Zartbitter knows of cases where Germans have targeted Latin American women with children using catalogues issued by a marriage bureau. They have then married the women, adopted the children and begun to abuse them sexually. In one case, investigations were carried out on a member of a respected Cologne family. In another case, a German married a Romanian woman and later abused her two-year-old child for pornographic purposes. About six to seven times per year, such cases appear at the Cologne counselling centre. In Berlin, a social worker is familiar with a case regarding a man who had adopted a Vietnamese boy in order to exploit him for pornographic films.

These, as well as several other sources, are a warning that the criminal paedophilia scene, which enjoys a high level of demand for its products, should not be underestimated. This trend is also evident in the increasing use of child pornography and the increasingly unscrupulous attitude of clients with regard to the escalating violence against children. More and more often child pornographic products of unimaginable cruelty arrive on the German market, and an increasing number of Eastern European children are exploited for this kind of pornography (*Frankfurter Allgemeine Zeitung*, 29.09.00, “Kinderpornoring zerschlagen” [child porn ring broken]).

A journalist and Internet expert has been warning for years that the child porn rings are spreading unrestrictedly (Drewes, 2000). Police authorities are now taking these warnings very seriously. “In Germany alone, between 30 000 and 50 000 consumers of child pornographic products are said to exist”, according to a director of the *Landespolizeischule* (state police school) Lautzenhausen warns (Probst, 2000, p. 9). Several inquiries show that paedophiles and pederasts rely on worldwide secret networks and that some of them persistently evade prosecution as seemingly respectable citizens (cf. Gallwitz/Paulus, 1999).

Does this also mean that child pornography rings transport minors to Germany to exploit them for their own purposes? So far, the law enforcement authorities have no proof of such cases. The LKA in Saxony declares that it has no information at all about child trafficking in the frontier area between the Czech Republic and Saxony. However, in Plauen the women's organisation Karo, which is engaged in providing frontier-crossing social activities for prostitutes, has repeatedly observed customers taking girls and boys as young as nine years of age across the border into Germany in order to sexually exploit them. A Karo employee knows from talks with minor and adult prostitutes in the Czech frontier towns that the sexual exploitation of Czech children in Germany is no longer an exception.

“Child prostitution has increased a lot”, says the employee, “most recently, children who are between one and one and a half years of age have been offered. “There are no statistics to back up this claim, but Karo knows of cases where German men take children to Germany for pornographic purposes. Also, cases are known where the entire family (mother and children) have been trafficked into the prostitution scene. The border authorities say that they cannot intervene against the

emigration of Czech or Slovakian children in German-owned cars if the children possess a valid passport.

The Prague government refers to child street prostitution and child trafficking in the German-Czech frontier area a “Seifenblase” (soap bubble) (*die tageszeitung*, 19.07.2000). The LKA in Saxony does not carry out any investigations in this respect either. Only the police headquarters for Lower Bavaria and for Upper Palatinate, according to one of their commissioners, have heard of similar cases but do not have any hard evidence. This means that the extent to which the paedophile scene influences child trafficking remains unclear.

In order to combat the international sexual abuse of children, the Federal Government has, in co-operation with the states of Bavaria and Saxony as well as with Karo and “Helsinki Citizens' Assembly”, set up a project to combat sex tourism by German criminals in the regions bordering the Czech Republic. This project aims to provide better protection for children and in particular to stop sex tourism aimed at the exploitation of children between Germany and the Czech Republic. Posters and postcards at the border have raised awareness of the problem of sexual abuse of children by German criminals in the Czech Republic. Potential criminals are deterred and the sense of responsibility and readiness to inform the police by the individual citizen is encouraged. The target group for the project are all individuals who cross the border from Bavaria and Saxony to the Czech Republic at certain transition points.

The results of investigations into child abuse scandals in Belgium, the Netherlands and Germany give rise to the conclusion that the extent of child trafficking and child pornography is greater than was suspected. “There are many different criminal organisations in active connection with each other, networks, and alliances that remain unrecognised and undetected. They operate like secret societies”, says a high commissioner for criminal investigations at the police headquarters in Ulm (Paulus, 1999). Illegal magazines are published regularly: “They are partly produced here in Germany or taken via underground channels to the Federal Republic of Germany, Switzerland or Austria and sold and distributed using a sophisticated organisation. In addition to child pornographic photos on high quality glossy paper, such products often contain an advertisement section where the children are openly offered for sale. Example: “*Chiffre* No. 112-3 offers two Polish girls, one 11, one 12 years old, one deflowered, one not. Weekend price: 2 500 DM” (Paulus, 1999).

The paedophiles' disregard for children knows no bounds. The counselling centre Zartbitter in Cologne has for years frequently learned about the exploitation of minors in the framework of satanic rituals and the production of so-called “snuff-movies”. “Children who have participated in cults report to us that primarily dark-skinned babies have been abused”, says an employee. Minors have also spoken of incidences of murder during the production of pornographic films. For the law enforcement authorities, such statements cannot be proven since the witnesses have often been drugged and give contradictory accounts of their experiences. In one such case, a child mentioned underground rooms in a location under suspicion that were never found. Nevertheless, the counsellor in question considers that these statements are credible. She suspects that the child traffickers and paedophiles use subtle means, such as manipulating the appearances of rooms with slide projections, to create effects that the fearful children mistake for reality.

If children have been murdered, then one might well wonder what has happened to their bodies. Zartbitter refers to a case on record at the Zurich Prosecution Office: a Swiss producer of pornographic films bought Romanian children, killed them sadistically as a part of his productions,

and destroyed the remains of the victims in drums filled with hydrochloric acid, thus leaving no traces. However, there have been no similar cases reported in Germany.

2.4 PHYSICAL AND PSYCHOLOGICAL DAMAGE

The readiness of traffickers to resort to violence is, as is generally known, widespread. Minors who are in their clutches experience this early on. Romanian children picked up by the German investigative authorities report that beatings or burns with cigarettes are commonplace. Sometimes they have also been locked for several days in bare rooms and with little food.

Aid projects report that female minors who fall into the clutches of trafficking rings are often repeatedly raped, and as a consequence suffer from infections or diseases affecting the reproductive system. However, the physical injuries are only part of their problems. There is also the enormous psychological pressure, young people suffer: homesickness, the high level of insecurity associated with being in an unknown country, and their total dependence on the traffickers. The minors are constantly threatened that if they try to escape, their parents and families will suffer and will be informed that their daughter is a prostitute. Even if they managed to escape, they would be found if they returned to their home village.

Many young girls suffer greatly from the feeling of being marked as prostitutes forever or of no longer being welcome in their family or home country. Even if aid projects take care of these girls in Germany, they still consider their situation hopeless.

Case 4

V. has been taken in by the Dortmund Midnight Mission. While the 15-year-old girl is waiting to return to her home country, she injures herself regularly with minor cuts. She thinks that it is her own fault that the traffickers have treated her like this. In addition, she now considers herself as a prostitute since she has been working as a prostitute for so long. She thinks she is bad because she has been a prostitute, and is afraid of talking to her family about all this, because she believes that her family will judge and then reject her. V. cannot imagine what the future in her home would be like. She does not believe that she can lead a normal life again like other girls of her age, and she does not want to attend school in the immediate future. She wants to have a boyfriend, later marry and have children. But she thinks that no decent man will ever marry her.

2.5 RECEPTION, ACCOMMODATION AND EDUCATIONAL CARE

Regarding the victims of child trafficking, the German law on Children and Youth Welfare is the most important legal basis. As a rule youth authorities take charge of these children. The minors transported to Germany by smugglers and traffickers come into contact with the youth welfare departments in different ways. Some of the minors are handed over to the departments after having been picked up by the investigative authorities and possibly after having been subjected to identification procedures (some older than 14 are found in police custody). Some give themselves up to the police, and unknown people who have met the children “by chance” hand others over to youth residential facilities. Others come into contact with organisations that care for victims of trafficking and trafficking in women.

If available, child and youth emergency services provide short-term educational care in the larger cities. However, these services say “ young victims of trafficking can’t be prevented from leaving the care facilities”. Often the minors “disappear once you turn your back”, say employees. Since child and youth emergency services are not properly equipped to deal with unaccompanied minors from abroad, mainly because of linguistic barriers, the victims are handed over to clearing centres and then to first-care or first-reception facilities, which offer accommodation, protection, basic care, leisure time activities, language lessons, basic and short-term educational possibilities as well as support for visits to the authorities.

If nobody can be found to take custody of those who are minors, they obtain a ‘tolerance’ or a right of residence permit. However, minors, who according to existing personal documents are 16 years old or are estimated by expert opinion to be 16 years or older, do not have this security. Often, they are urged into almost hopeless asylum application procedures just to obtain residence status, complain the carers. For those who are old enough for the asylum application procedure, youth welfare is only available to a limited extent.

Berlin refugee organisations point out the fact that sometimes minors under sixteen years of age are also urged to follow these procedures.

Case 5

E., a Romanian girl who had been abused by smugglers, came to Germany at the age of thirteen and lived in a youth residential facility. After her application for asylum was refused, the repatriation process began. Refugee groups reported the case to the *Härtefallkommission* (Commission for Hardship Cases) of the Berlin senate. But before the hearing could take place, the *Senatsverwaltung für Inneres* (Senate Administration of Internal Affairs) declared that “adequate care” of the 14 year-old girl now living in Bucharest could be guaranteed. “The reception centre, which is repeatedly referred to in this context, is still in the planning phase”, note the refugee organisations. But months after the repatriation they learned: “The last thing we have heard about E. is that she is working on the streets in the Czech Republic“

Source : Pax Christi et al. 1998, p. 33 f.

Not surprisingly, the limited stay in a home and the threat of repatriation frequently lead the minors to withdraw their request for asylum. Thus the educational task of first-care and youth care facilities becomes a farce – more so for minors who have been lured or smuggled to Germany.

It is precisely in this situation that the committed employees of the public or private facilities need support by means of a secure residence status for the affected juveniles. Minors who depend on child traffickers are initially characterised by fear or lack of interest. “They are reserved, aggressive or vulnerable”, says an employee of Woge (Hamburg). Other youth care facilities make similar observations. “It is very difficult to integrate the children”, says an employee of the youth welfare department of Hamburg-Mitte. One reason is their unwillingness to talk about themselves, another is their constant absenting/disappearing: “They appear time and again if they need a place to sleep or want to have enough to eat. But they disappear again very quickly.” Some youth authorities make arrangements with the facilities and tolerate this situation. “The children should know that they have the possibility of refuge if things are getting too hot” they say. It is known that the dependent

minors are housed in hotels, boarding houses or private apartments, are under constant observation and that it is usually difficult for them to evade the physical and psychological pressure of their “patrons”.

Moreover, the higher living standard promised by the “patrons”, pimps or child traffickers explains why the minors are not impressed by the youth welfare offers. “What chance have we got giving them pocket money if they can make several hundreds or thousands of Deutsch Marks on their stealing sprees?” ask employees of care facilities. As a consequence, many of the children behave self-confidently, arrogantly or callously when communicating with adults.

2.5.1 Witness Protection

Nevertheless, carers believe that some of the affected minors do indeed wish to escape from their situation. “Witness protection programmes” offer minors the opportunity to do so. The *Gemeinsamen Richtlinien der Innenminister/-senatoren und der Justizminister/-senatoren der Länder zum Schutz gefährdeter Zeugen* (Common Guidelines of the State Ministers/Senators of the Interior and the Ministers/Senators of Justice for the Protection of Endangered Witnesses) of 16 May 1997 state: “The police department responsible for witness protection arranges the witness protection measures”. These can be district police offices or LKAs. The premise for witness protection is the prospect of a successful investigation. It must be witnesses (or also co-accused) who can give decisive evidence in the criminal proceedings. Although it is the investigative authorities that decide on witness protection, youth protection authorities can make suggestions. In the guidelines for witness protection, however, there is no legal basis for this.

Minors who are willing to testify are given a new identity and are housed in residential facilities that are only known to the police officers responsible for witness protection. This accommodation is available throughout the investigation and the subsequent legal proceedings. Youth protection authorities or independent relief organisations are also integrated into these locations. Nevertheless, the witness protection programmes meet with mixed reactions. There are occasions when, in spite of detailed instructions, juveniles go back to their old criminal milieu and do not value the offers of education that are made to them. Independent organisations also criticise the accompanying benefits of the witness protection measures. An employee of the women's aid organisation Solwodi criticises the fact that witnesses have only four weeks to decide in favour of such a programme. The adolescents are often traumatised and not immediately ready to testify. Besides this, the willingness of the public sector to support the independent facilities during the time that they care for the witnesses is considered insufficient.

Agisra complains that victims who testify against traffickers in women are not allowed to embark on vocational training or get a job during the legal proceedings, as their “tolerance” status does not entitle them to accept such offers. “For a period of 12 or 18 months, the thoughts of these women and girls revolve around their experiences. If they do not go crazy, it is a miracle”, says an Agisra employee. Future immigration is also not possible. However, the offer of some form of training could be an important incentive for the affected persons to participate in witness protection programmes, according to many employees from the youth welfare sector. Another area that needs to be improved is the amount of therapy available to the victims, which is presently inadequate.

Even when the victims do opt to enter the witness protection scheme, a successful prosecution is far from guaranteed. According to the Dortmund Midnight Mission, proceedings are unsuccessful because of the psychological pressure to which the minors are exposed for months. In this situation,

they start to confuse when and by whom they were abused and thus their evidence loses credibility, according to a Midnight Mission employee. If the proceedings and the witness protection measures are then suspended, the victims are in twice as much danger.

Frequently, witness protection is not provided because the German authorities are not interested in investigating the possible backgrounds of trafficking, child trafficking and trafficking in women or because possible witness statements are prevented by a hasty repatriation. Almost all informants know of cases where, after preliminary police investigations or raids, minors have been taken into detention for deportation and then deported to their home country because residence permits were missing.

Case 6

Only after several months in a Hamburg facility, does A, a 15 year-old Romanian boy feel able to talk to his carers about his exploitation by smugglers and child traffickers. Despite a lot of psychological pressure, the boy has freed himself from these dependencies vis à vis the traffickers, but does “not yet” want to testify against his smuggler, says an employee. “He has been terribly afraid of being beaten. He might have been willing to testify sooner if the authorities had offered him sufficient security against persecution”. However, today this is no longer possible, as in the summer of 1998 the boy, whose family background is extremely unsettled, was deported to Romania. Since then, he has been in jail there.

This example demonstrates the tensions between the law concerning foreign nationals and the interests of the prosecuting authorities to use victims of trafficking as witnesses in legal proceedings. Repatriation exposes the victims to a new danger. In this context, however, the police refer to co-operation concepts between expert counselling centres and the police for the protection of victim witnesses of trafficking. Decrees by different states provide the basis for greater protection, and thus sometimes victims who are willing to testify or needing some kind of care are not deported.

2.5.2 Repatriation

According to the statements made by several employees in reception facilities, the repatriation procedure has serious flaws. It is true that the non-state International Social Service, which has its headquarters in Frankfurt/Main and which is responsible for the repatriation of UAM third nationals, has a network of employees and partner organisations in about 100 countries at its disposal. Thus it can be clarified within a few months how and by whom the minors have been received in their home country. According to the results of the inquiry, guardians can decide about repatriation. But the International Social Service claims that it is not always able to clarify the nature of the repatriation.

According to several sources, there have been cases in Hamburg and Berlin where neither guardians, home staff, nor the International Social Service, have been informed by the immigration offices of imminent repatriations. The International Social Service complains that few inquiries come from Berlin (Greß, 1999, p.26 ff.). Bearing in mind the lack of security on offer and the apparent inability of the authorities to co-ordinate their efforts, it is perhaps understandable that

minors evade the possibility of deportation. “We have often seen that Romanian girls disappear before deportation and fight their way through the city”, says an employee of a facility in Hamburg.

This is also hardly surprising when one considers the social situation in the immigrants’ home country, a deterrent in itself. During a trip to Romania, staff from various youth facilities in Hamburg saw that there are no youth welfare structures in place as they are understood in Germany. The understanding of youth welfare is different, and re-integration into the family is often impossible. Moreover, in the country of origin, there is a lack of youth care facilities and existing facilities often fail to accept the minors. Deportations to countries such as Romania do not make much sense, as most of the minors simply go back to Germany.

According to the International Social Service, however, awareness of youth welfare and youth protection in Romania is growing. There is a broad range of efforts being made by foreign aid organisations, but in spite of some progress, many contacts have the impression that there is a considerable lack of knowledge regarding the reception of deported persons. According to several experts, the *Rückübernahmeabkommen* (re-admission agreement) between Germany and Romania, to which many immigration offices refer, is insufficient because it contains no declaration regarding the security of returned minors.

Such doubts, however, do not only affect Romania. Romanian as well as Kurdish youths frequently report threats and persecution and abuse on their return home. Cases of murder have also been reported. Suicides and attempted suicides are not uncommon among juvenile foreigners who are threatened with deportation. The whereabouts of minors deported to Africa remain unknown.

2.6 DEPARTURES – DISAPPEARANCE INTO ILLEGAL STATUS

Although there is little information about the situation of UAMs living as illegal aliens (Pollmann, 1995), it is even more difficult to obtain information about the victims of traffickers in children and women who “disappear”. It is known, as mentioned previously, that minors repeatedly evade the control of the youth authorities during the different phases of their admission. Some disappear shortly after their compulsory admission to a clearing centre, others after more than one year of school attendance and accommodation in a residential facility, and some shortly before an impending deportation. However, more precise information about this phenomenon is still not available.

There is certainly a suspicion that some minors are exploited by child traffickers again in other countries or that they manage to flee to a neighbouring country or further afield. “We see it happening for example with girls from Sierra Leone, who sometimes disappear and then reappear in the United States”, says a carer at a Hamburg first-care facility for girls.

Reception facilities and aid organisations agree that in Germany, security for minors falls well below an acceptable level. The situation concerning the right of residence and the education on offer to minors are the most important aspects of care that need to be improved.

3. POSSIBILITIES OF GREATER PROTECTION

Even if these inquiries only offer a limited insight into the topic of child trafficking into Germany, they show nevertheless that certain standards with respect to the proscription of the offence and protection of victims are not met. It is therefore necessary to establish:

- Better assessment of child trafficking in criminal statistics;
- Training of investigation and immigration officers to be more sensitive in such cases;
- Better co-operation between youth care facilities, independent organisations, immigration offices and police authorities for the benefit of the victims and to ensure a better detection rate. In any case, it would be helpful if all organisations and authorities working in this area were to exchange information to a much greater degree than has previously been the case.

Co-operation between the law enforcement authorities and their counterparts in Eastern European countries also needs to be improved. Several statements confirm that this is one area that still leaves a lot to be desired, and that investigative structures in Eastern Europe are highly under-developed and require further assistance.

The conditions of residence for victims and witnesses must be improved, especially in terms of the length of residence status granted to victims willing to testify. This should be for a minimum of at least six months to enable them to build up trust. In addition, witness protection programmes should be able to receive more comprehensive support from public authorities. Further protection measures for minors might also be necessary.

More optimistic prospects with educational and professional possibilities would be advisable in the framework of witness protection. For minors without support in their home countries, a residence security of up to three years could be envisaged. This would entail a revision of the legal regulations concerning asylum and foreign nationals. To cover the well-being of children, a law relating to minor foreign nationals must be created. It should be possible to grant unaccompanied minors a secure residence status after three years if it is impossible for them to return to their home country.

If repatriation seems appropriate, it should only take place after comprehensive inquiries have been made about repatriation conditions. These conditions should be concentrated on, according to the International Convention on the Rights of the Child, the well-being and security of the minors. In case of bilateral re-admission agreements, possibly endangered minors should be excluded from repatriation in the future.

Last but not least: support for the countries of origin should be available:

- Awareness of the problem of international trafficking must be intensified, e.g., in schools, youth care facilities or discotheques;
- Germany could participate in the expansion and extension of youth welfare structures;
- German state and non-state facilities could promote pilot projects;
- Visits to German facilities could be offered (e.g., visits by Eastern European journalists to German counselling centres for women).

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