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ITALY

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INTRODUCTION

The present report deals with unaccompanied minors in Italy, with particular emphasis on child victims of trafficking in human beings for the purpose of sexual exploitation or other forms of labour exploitation.

The constant changes that colour the phenomenon – and the urgency with which it has been dealt with – have so far hindered in-depth analysis aimed at providing a detailed description of the essential features of trafficking in human beings, pinpointing its causes and proposing possible solutions.

At the moment, it seems that all those involved in providing care for minors need to take some time off for in-depth reflection. The present report is a hopeful attempt at furthering that end.

After providing a brief outline of the history of the phenomenon, the report looks into how far it has developed, in both qualitative and quantitative terms. Estimates of the extent of the phenomenon are complemented by a qualitative description including classifications by country of origin, mean age, gender and the reasons that lead these young migrants to Italy.

The report then presents an overview of the applicable legal framework, followed by a description of the judicial and administrative bodies (at the international, national and local levels) in charge of the minors in question and the protective measures afforded to them under law from the time of their arrival at the country's border.

The second part of this report focuses on the trafficking in illegal minor aliens and on a critical analysis of currently applicable laws aimed at identifying the legal loopholes through which criminal networks infiltrate the system, to pursue their own ends.

The report also touches upon the "aberrations" that beset the system for protection as well as the gaps in the legal framework and the reception structure, and puts forward proposals for reform.

Lastly, current trends and forecasts of future tendencies are analysed in the light of the National Plan for Children and the most recent draft legislation.

METHODOLOGY

Since up-to-date literature on the phenomenon is scarce and in any case in a state of rapid ongoing development, the statistics and other information for this report had to be gleaned from other sources. In particular, the contents of this report are based on comparisons with the facts and figures used by other researchers involved in similar projects, as well as on data released during conventions and seminars, reports to technical parliamentary committees, on-line material and, most importantly, information provided during in-depth interviews with persons well-placed to observe the phenomenon, throughout Italy.

This overview revealed glaring discrepancies in the way care is provided to minors from region to region as well as the wide discretionary powers invested in the institutions in charge of dealing with the issue.

Unfortunately, figures on the number of unaccompanied minors in Italy in the year 2000 are not currently available, since data were updated only as of 31.12.1999. The Committee for Alien Unaccompanied Minors – the institution in charge of collating such figures – has not yet completed the cross-checking and analysis required to purge the figures collected so far of repeated inclusions and other irregularities (false names, admission of the same child into care by a series of different bodies, etc.). On the other hand, when compared with unofficial statistics submitted at a recent convention, currently available official statistics seem to significantly underestimate the dimensions of the phenomenon at the present time¹.

It must also be pointed out that the estimates presented in this report must not be merely "summed up" since there is no way of determining how far they are reliable (minors often use various *aliases*) or if, and to what extent these estimates contain repeated reports of the same minors by various institutions (border police, hospitals, "first reception centres", etc.) or by bodies located in different regions.

Furthermore, the figures are classified differently by various sources using categories that are not always mutually exclusive (minors housed in "first reception centres", victims of the offences mentioned in Italian law no. 268/98², minors involved in criminal proceedings, repatriated minors, minors stopped at the border, etc.).

For all these reasons, therefore, the figures must be considered merely as being indicative of the dimensions of a phenomenon that, in Italy, still needs to be fully defined.

¹ During a national seminar "*The Alien Unaccompanied Minors*", held on 16 November 2000 in Rome, Mr Mauro Valeri, Vice-Chairman of the Committee for Alien Unaccompanied Minors, estimated the number of UAMs in Italy at around 7 000.

² "Provisions on the exploitation of prostitution, pornography and sexual tourism to the detriment of minors as new forms of slavery".

1. THE FEATURES OF THE PHENOMENON

1.1 THE HISTORICAL DEVELOPMENT OF THE PHENOMENON

An "unaccompanied minor alien present within the territory of the State", is defined as "... a minor who, not being an Italian national or a national of another European Union Member State and not having applied for asylum, is for any reason within the territory of the State without assistance and representation by his/her parents or other adults legally responsible for him/her in keeping with the provisions applicable within the Italian legal system " (article 1(2) of Italian Presidential Decree no. 353/99³).

The definition used by the UNHCR is, in many ways, similar insofar as it refers to this type of minors as "*separated children*". Separated minors are "minors under 18 years of age that are outside their country of origin and separated from both parents or from an adult who, under law or by custom, is responsible for their well-being and protection. Certain children may be completely alone, while others ... could be living with members of the extended family" within the context of emigration. The definition further states that "separated children may seek asylum for fear of persecution, armed conflict or upheavals in their own countries, or because they are victims of sexual or other types of exploitation (...) or in order to flee from situations of serious deprivation"⁴. Despite this definition and the declaration regarding the right to asylum of minors affected by trafficking in human beings, in fact, in Italy, "separated children" or "unaccompanied minors" tend to opt for forms of protection⁵ other than asylum. This is due to a series of factors: outdated Italian laws on asylum that still are in need of long overdue reform; the ignorance of minors about their rights as potential asylum seekers; more direct access to other forms of protection dealt with later in this report.

Although the presence of unaccompanied minor aliens is not a new phenomenon in Italy - in fact it dates back to the post second world war period - it has undergone a drastic transformation over the past fifteen years. Up to the end of the 1980s, it was linked to movements of minors fleeing conflict situations in and around their countries of origin. Over the years, Italy has seen successive waves of refugees essentially from Hungary (in 1956), Czechoslovakia (in 1968), Cambodia, Vietnam and the Horn of Africa in the 1970s and Somalia in the 1980s. These waves of refugees mainly required operations providing "first reception" facilities for asylum seekers. In keeping with the Geneva Convention, Italy went to great lengths to provide these minors with temporary assistance consisting mainly of accommodation in refugee camps, medical and mental healthcare services, support in being reunited with their families and in completing the formalities required for obtaining documents for final settlement in countries, generally on other continents (the United States, Canada, and Australia).

³ "Prime Minister's Decree, 9 December 1999, n. 535: "Regulation concerning the Committee for Alien Unaccompanied Minors' tasks" on the basis of art. 33, par. 2 e 2-bis, of the Aliens Law of 25 July 1998, n. 286"

⁴ UNCHR, Separated children in Europe Programme, Statement of Good Practice", Save the Children Alliance in Europe, 1999

⁵ Regarding the assistance tools, please refer to chap. III of the present report.

In the second half of the 1980s, the phenomenon took on new dimensions: it was during these years that young adolescents started arriving in Italy from the Maghreb, (mainly Morocco and Tunisia), in a migratory flux almost identical to the influx of adult migrants from the same countries. These young migrants came in search of work that would allow them to earn income that would help their families back home cope with economic hardship.

The massive influx of minors from the Balkans – especially Albania – in the 1990s confirmed this tendency and triggered a fully-fledged "social alarm": from this period onwards, the Italian authorities started dealing with the problem as an "ongoing emergency". The lack of a specific legal framework and clear directives led to increasing confusion about how to deal with the phenomenon, engendering the proliferation of red tape and wide discretionary powers that still characterise the situation in Italy.

Since Italian law no. 39/90 – known as the “Martelli law”, the first Italian law on the status of aliens – did not specifically address the issue of unaccompanied minor aliens, all related issues were governed mainly by the Convention on the Rights of the Child (that prohibited the deportation of minors), general statutes and a large number of circulars. Under this legal framework, all decisions regarding minors were entirely the responsibility of the courts (Tribunal for Minors and Guardian Judges). Certain particularly advanced initiatives – such as the "Tutele Civili" project developed in Turin, under the aegis of a large number of individuals and organisations involved in taking children into care – have recommended guidelines to be followed in dealing with cases of this type: such measures generally tend to provide protection that allows the child to obtain a residence permit authorising him/her to undertake a course of study, followed by vocational training, and upon reaching the age of majority, a work permit. This framework (called "incorporationist" by some) is therefore based on the principle that the best solution for these minors is to ensure their integrated settlement within the communities that they have chosen.

The reforms introduced by the Italian law no. 286/98, the current law governing the status of aliens, as well as recent developments in child migration, have opened the door to a debate on the best way to deal with unaccompanied minors, in the light of the progressive increase in migration fluxes, the demand for reception and the general trends that have coloured the phenomenon over time.

1.2 STATISTICS AND FEATURES PERTAINING TO UNACCOMPANIED MINORS⁶

As opposed to 12 123 new entries of minors in 1998, **24 708** new residence permits were granted to minors⁷ in 1999, including **2 036** for employment, **129** for self-employment⁸ and the rest divided into the categories described below by Mauro Valeri, Vice-Chairman of the Committee for Minors: **Minors applying for asylum (and beneficiaries of temporary reception on humanitarian grounds)**⁹: This category is governed by article 1(5) of **Italian law no. 39/90**, that implements article 1 of the Geneva Convention and currently regulates the right of asylum in Italy. Compared

⁶ The present statistics appear in the Yearly Caritas Statistical Report on Immigration in Italy, 2000.

⁷ These statistics refer to minors in general, not only to unaccompanied minors.

⁸ In both cases, the number of residence permits issued can also relate to the recent regularisation. Therefore, the figures could not express totally new entries into the Italian territory. Regularisation was a measure taken in 1997 and aimed at providing a residence permit for those immigrants in an irregular administrative situation present in Italy who could prove that they were gainfully employed.

⁹ The present figures do not necessarily relate to unaccompanied or “separated” minors and as such are not fully relevant with respect to a quantitative estimate of UAMs in Italy.

with other EU Member States, minors in this category are few in Italy. This may be because minors seeking asylum prefer other countries where the rights and status of refugees are more clearly defined (Italy's asylum law still stands in need of a long-overdue reform). On the other hand, it is also possible that minors qualifying as asylum seekers choose not to apply for asylum because of the wide extent of protection afforded to all minors under Italian law, regardless of their status as asylum seekers. The risk in these cases is that some minors may choose a certain system of protection that may entail the loss of their right to seek asylum at a later date. Lastly, other authors feel that few minors seek asylum in Italy, largely as a result of the lack of an adequate national system providing protection and reception facilities. In 1999, **194** residence permits were issued to minors seeking asylum, as opposed to **1 751** to minors granted temporary protection¹⁰.

Minors seeking reunification with their families. Reunion with families is by far the most common motivation underlying the issue of residence permits to minors, and accounted for **13 611** permits issued in 1999 alone.

Minors abandoned by their parents after arrival in Italy. This category of minors falls under the scope of Italian law no. 184/83 that governs placement in care and adoption.

Illegal immigrants¹¹. Nearly all unaccompanied minors in Italy fall into this category. In 1999, **4,398** permits were issued for adoption and placement in care¹². 96% of the children granted residence permits in this category came to Italy from non-EU Member States¹³. As of 31 December 1999, **3 059** unaccompanied minors were still on the waiting list for placement in care or protection, and are currently under the responsibility of the Mayor of the city in which they were found by law enforcement agencies.

Minors exploited in the sex trade. This category includes a large percentage of alien minors exploited for prostitution and trafficking in human beings. Article 18 of the Aliens Law no. 286/98¹⁴ provides for a special residence permit in these cases, and will be discussed in-depth in chapter III of the present report.

Besides the above categories, there is also the category of **minors involved in criminal proceedings**, either as victims or perpetrators. Irrespective of whether the minor is involved as a victim or an offender, a residence permit is issued "for judicial purposes". In 1999, **2 275**¹⁵ juvenile offenders came into contact with the Social Services of the penal system. Juvenile offenders are mostly charged with offences against property (77.5%) and drug-related offences (17.6%)¹⁶. In the case of victims, the statistics currently available are only those relating to child victims of the offences mentioned in Italian law no. 269/98¹⁷, and do not, in any case, distinguish between Italian

¹⁰ It is a residence permit issued as a consequence of the Kosovar crises and is temporary.

¹¹ This is precisely the category identified as unaccompanied/"separated" minors.

¹² Si tratta, nello specifico, del tipo di permessi che vengono rilasciati non solo ai minori abbandonati dai propri genitori ma anche ai minori stranieri non accompagnati.

¹³ Caritas Statistical Report, 2000.

¹⁴ The Turco-Napolitano law regulating the status of aliens (n. 286/98).

¹⁵ It is necessary to emphasise that the statistics drawn up herein represent the number of *entries* and not the number of *people entered*. This means that those minors who came into contact with the Social Services more than once in the year were recorded each time they approached the Social Services (temporary movements are excluded).

¹⁶ Note that the statistics do not distinguish between minors who are not accompanied and those who are.

¹⁷ Caritas Statistical Report, 2000.

¹⁸ "Provisions on the exploitation of prostitution, pornography and sexual tourism to the detriment of minors as new forms of slavery".

and alien minors. In all, **202** minors were victims of sexual exploitation, **18** of child pornography and **19** of other offences included in the statute in question.

Account must also be taken of other statistics provided by International Social Services regarding minors for whom assisted repatriation has been requested (in total **2 274** cases). Bearing in mind the caveats mentioned in the introduction, one may however safely conclude that this category does not include children without a residence permit for placement in care or under guardianship, since it is very probable that not all the minors for whom assisted repatriation is requested have been issued with such formal documents.

Further indications of the dimensions of the phenomenon may be found in the statistics provided by emergency child protection centres in certain large cities, especially Rome, Milan and Florence. In 1999, the municipality of Rome took **693** alien unaccompanied minors into care, as opposed to **528** in Milan and **165** in Florence.

Even allowing for the errors and repetitions that affect the reliability of such figures, as pointed out in the introduction, there can be no doubt that the phenomenon has reached considerable proportions in Italy and that it is still increasing.

Speaking of unaccompanied minors at a recent conference in Italy¹⁸, Mauro Valeri remarked that they "leave [their home countries] as adults, only to discover that they are but children". Most operators working in close contact with such minors largely support this evaluation. Most alien minors in Italy are male (80%)¹⁹ and mainly come from Albania, Romania and the Maghreb (particularly Morocco). They tend to be close to the age of majority (85% are between 15 and 18 years old)²⁰, although in recent times, even younger migrants have entered Italy, especially from Albania.

Although Albanians constitute the largest group (accounting, for instance, for 38% of the minors taken into care by the Municipality of Rome), recent figures indicate an increase in the number of entries by minors from Romania. Even though a large majority of these children enter Italy illegally, they seem to be well aware of the laws and instruments of protection available to them. Certain operators tell of minors arriving at social service centres or police stations with a "full list" of demands: residence permits, protection, admission into reception centres, insertion into the labour market, etc. Some of these minors are even equipped with the addresses of emergency child protection centres or the relevant police offices as well as birth certificates – sometimes bogus – attesting to their status as minors²¹.

Most of these minors expect to work and rapidly accumulate enough money to allow them to return to a dignified life at home, after a few years. While most young Albanians dream of building a home and purchasing a trendy car in Albania, minors from the Maghreb seem more interested in assisting their families economically, by contributing to the purchase of land and the digging of wells.

¹⁸ "The alien unaccompanied minors", national seminar held on 16 November 2000 in Rome.

¹⁹ *The alien separated children, analysis of significant operational interventions with alien unaccompanied minors in Rome. General considerations*, Rome, October 2000 (Progress of a research project by Parsec-University of Florence, carried out with the DAPHNE programme contribution).

²⁰ *Ibid*, page 75.

²¹ *Ibid*, page 20.

After an initial flux of minors from large cities, the current trend indicates that increasing numbers of young adolescents migrate from the more rural hinterland of their home countries: these new arrivals are less well educated than their urban predecessors and are less keen on enrolling for schooling or vocational training.

These children often report that their parents readily accept – and sometimes actively encourage – their migration as a way of providing sustenance for the entire family. Family expectations and the sense of duty with which they are imbued, often become an obstacle to their integration: it is not uncommon for these minors to refuse schooling because they consider it a "waste of time" when compared to the need to accumulate wealth. At best, they accept vocational training courses that allow them to improve the academic qualifications or work experience acquired in their home countries (carpenters, lathe operators, construction workers, machine operators, etc.).

The families do not seem to be overly concerned about the fate of their children since – unlike their Italian counterparts – these minors are considered miniature adults in their home countries and because the families are aware of the reception facilities and protection afforded to alien minors by the Italian State. Therefore, these families consider sending their children abroad as a form of "protected" migration involving risks that are well worth taking in the light of the possible benefits that could be obtained in terms of well-being for the entire family unit.

As a result, the emotional state of most of these minors seems to follow a rather standardised pattern that may be described as follows:

Departure. When the minors leave their native countries, they are highly motivated to succeed and inspired by a desire for "adventure": the moment of departure is almost a challenge for them, an opportunity to test their potential and prove their worth, first of all to their parents. At this point, they feel very adult, "fully-fledged immigrants" with targets and aims that seem clear and realistic.

Catching up with reality. Having reached Italy, however, they realise that their dreams of wealth cannot materialise since the real situation regarding job opportunities and the legal means to generate income are quite different from what they initially expected. The ensuing frustration leads to a feeling of helplessness that manifests itself in depression.

The crunch. The fragile state of these minors renders them particularly vulnerable and leads them to one of two possible fates: some fall easy prey to exploitation, while others decide to avail themselves of institutional assistance, seeing in their condition as "minors", an opportunity thus far unexplored. In this scenario, there is a risk that they may regress, losing their independence and self-confidence, to become the passive recipients of state welfare benefits.

2. THE LEGAL FRAMEWORK AND THE SYSTEM FOR THE PROTECTION OF ALIEN UNACCOMPANIED MINORS

2.1 THE LEGAL FRAMEWORK

The Italian legal framework regarding minors is made up of a series of provisions covering a whole range of contexts and contained in various laws that do not always specifically refer to minors. In particular, account must be taken of:

1. International conventions (especially those ratified by Italy);
2. Italian laws and articles of the Civil Code pertaining to the instruments of protection available to minors in general;
3. The Aliens Law, no. 286/98;
4. Italian laws applicable to sexual exploitation and other forms of reduction into slavery (especially the already cited Italian law no. 269/98);
5. Statutory provisions pertaining to minors involved in criminal proceedings.

Both the Italian Constitution (article 31) and the New York Convention on the Rights of the Child, ratified by Italy, tend to endow the minor with a status that is, to a large extent, independent of his nationality, placing him in a specific legal category with specific rights, most importantly, the right to the "full development of his personality". Under article 3 of the New York Convention, all decisions made with regard to minors by any judicial or administrative authority, must be inspired by the "*best interests of the child*" and must also serve as a guideline in construing the rules and regulations that may be applicable from time to time. This means that all minors, regardless of their nationality, are afforded the highest possible degree of protection.

The New York Convention further specifies that the "best interests of the minor" means: "...The development of the child's personality, talents and mental and physical abilities to their fullest potential" so as to prepare the child " for a responsible life in a free society", in the "respect for human rights and fundamental freedoms" (article 29). For this to take place, the child is deemed to stand in need of:

- a standard of living adequate for the child's physical, mental, spiritual, moral and social development (article 27);
- good health (and therefore access to adequate health care services) (article 24);
- general and vocational education (article 28);
- adequate protection against the various forms of economic exploitation (article 32).

Although the main reference point for a minor is his/her own natural family (article 1 of Italian law no. 184/83), in the absence thereof, it becomes the responsibility of the State to guarantee the aforesaid rights, and more specifically, the State within the jurisdiction of which the child comes under (article 2 of the New York Convention; The Hague Convention of 5 October 1961).

2.2 ENTRY INTO THE TERRITORY

Under article 33 of Italian law no. 184/83, which governs adoption and the placement in care of minors, alien minors are authorised to enter Italy only if they are accompanied by at least one parent or relative up to the 4th degree, and if they possess valid identification and travel documents (passport or equivalent document) and an entry visa (granted for the purposes of adoption – only in the cases provided for under law – family-related issues, tourism, study or medical treatment).

In derogation of the above requirements, temporary entrance may also be granted with regard to:

- “urgent humanitarian needs, arising from conflicts, natural disasters or other events of a particularly serious nature in countries that are not members of the European Union” (article 20 of Italian Law no. 286/98) upon promulgation of a decree by the Prime Minister;
- temporary residence within the framework of temporary reception programmes based on human solidarity, promoted by bodies, associations or families (provided for under article 33 of Italian Law no. 286/98, that also sets up the Committee for Alien Minors);
- Article 33(4) of the Italian law on Adoption (no. 476/98) further specifies that the prohibition of entry provided for under article 33 of Italian Law no. 184/83 is no longer applicable in the case where, as a result of armed conflict, natural disasters or exceptional events or for other serious, objectively discernable impediments, to the procedures and formalities required not being completed, provided in any case that it is in the sole interest of the minor to enter the territory of the state. The border authorities are required to report all such cases to the Tribunal for Minors as well as to the Commission for International Adoptions (so as to ensure that such entries do not violate the laws applicable to adoption);
- Article 33 of Italian Law no. 184/83 stipulates that, in all other cases, the minor must be deported without further enquiry or forms of protection. It further stipulates that in the case where the minor is accompanied to the border by an adult, this adult must ensure the child's repatriation at his own expense.

The sole instrument available, under article 8(5) of Italian Law no. 286/98, consists in a form of humanitarian aid at border posts. Apart from this, the border authorities are only required to report the case to:

1. the Commission for International Adoptions (article 33(3) of Italian Law no. 476/98), which then contacts the minor's country of origin (article 33(4) of Italian Law no. 476/98);
2. the Tribunal for Minors enjoying territorial jurisdiction over the place in which the minor was found (article 33(5) of Italian Law no. 476/98), which may adopt any or all temporary measures in the interest of the minor.

2.3 RIGHTS RECOGNISED

In the case where the minor manages to elude border checks and succeeds in illegally entering the territory of the State, s/he immediately comes under the protection of the relevant institutions. After the moment of entry, s/he acquires the following rights:

2.3.1 right to temporary residence

In principle, minors in Italy are not subject to deportation. Under article 28(a) of Italian Presidential Decree no. 397/99, minors must therefore be granted a residence permit on the basis of their age. The police authorities issue the residence permit after having identified the minor and ascertained his/her age (and therefore his/her right to the status of minor) and obtained information regarding his/her situation from the Embassy or Consulates of his/her country of origin. The minor's identity is established by photographic identification and finger-printing and the central database is used to determine whether the same minor has used another name or passed under another nationality²². In the absence of other means of proving identity, a general medical examination is carried out. In the case where secondary sexual features indicate that the minor has passed puberty, age is determined using X-rays of the wrist, although this method has a wide margin of error²³. The police authorities also immediately report the minor to the judicial authorities for the implementation of all necessary measures.

Deportation may be ordered "in the interest of public order", only by the Tribunal for Minors (article 31(4) of Italian Law no. 286/98) at the express request of the relevant chief of police²⁴. In the case of minors who decide to accompany their deported parents, emphasis is placed on the minor's right to refuse to be separated from his/her parents against his/her will (article 9 of the New York Convention).

2.3.2 Reception in suitable structures

Abandoned minors have the right to be immediately accommodated in a safe place until final measures may be taken for their protection (article 403 of the Italian Civil Code). The Italian system provides for "first", "second" (and even "third") stage reception centres. "First reception centres" offer the child, so-called "low threshold" reception services, mainly consisting in placement within an institution (food and lodging), clothing and healthcare services provided in collaboration with other bodies. The time a minor spends in such "first reception centres" ought to vary between 24 hours and 90 days, although it often extends way beyond this limit because of the unavailability of accommodation at second-level structures or as a result of delays in obtaining judicial or administrative relief or in completing formalities required for the issuance of documents. The needs of the minors in question are preliminarily examined at "first reception centres" before proceeding either with an application for assisted repatriation or with accommodation in "second" or "third" stage reception centres.

²² Caritas Statistical Report, 2000, page 118.

²³ Interview with Doctor Alessandra Diodati, surgeon of the Italian Red Cross, Director of the Center of Temporary Permanence "Ponte Galeria" in Rome.

²⁴ It is necessary to underline that expulsion in the interest of public order is usually an exceptional measure often replaced by assisted repatriation.

These centres organise activities aimed at educational projects that generally include Italian language courses, get-togethers on the traditions of the minor's home and host country, training courses, work scholarships. The aim is to promote the insertion of the minor into the local social fabric and assist the minor in the labour market.

2.3.3 Healthcare and other social security benefits required under law

In keeping with article 24 of the New York Convention, article 35(3) of Italian Aliens Law no. 286/98 requires the provision of urgent or in any case essential out-patient and hospital care, even over long periods of time, for diseases and/or accidents, in accredited private or public institutions. The minor furthermore has the right to be vaccinated, the right to treatment for infectious diseases and right to the safeguard of pregnancy and mother care.

2.3.4 Education

Both the Italian Constitution (article 34) and the Aliens Law (article 38) uphold the right of minors in Italy to receive compulsory education. It is important to underline that the right to education also extends to minors residing illegally in Italy, who may be inserted into classrooms at any time during the academic year. The law also requires measures aimed at promoting a multicultural approach to school education so as to ensure a more rapid and effective integration of alien minors within the context of reception.

2.3.5 Temporary reunification with families

Article 31 of the Aliens Law no. 286/98 empowers the Tribunal for Minors to authorise the entry and residence in Italy of a family member of the minor, "in the case of grave necessity linked to the development of the minor, in the light of his age and health".

2.4 THE INSTITUTIONS IN CHARGE OF CHILD PROTECTION

Instruments for the protection of children in Italy are basically divided into two types: "urgent" and "ordinary", depending on the temporary or more permanent nature of the instrument, or on the degree to which parental authority over the minor is compromised.

Under law no. 64/94²⁵ that, amongst other things, ratifies the European Convention on the recognition and execution of decisions pertaining to the placement in care of minors and the re-establishment of placement in care, the Italian institution in charge of adopting urgent measures for the protection of minors is the Tribunal for Minors enjoying jurisdiction over the place of residence of the minor in question²⁶.

²⁵ 15 January 1994 law no. 64. "Ratification and execution of the European Convention on the recognition and execution of decisions pertaining to the placement in care of minors and the re-establishment of placement in care", open to signing in Luxembourg on 20 May 1980, and the Convention on the civil aspects of the international minors' abduction, submitted for signing at The Hague on 25 October 1980; executing provisions on the above-mentioned Conventions as well as the Convention pertaining to minors' protection, submitted for signing at The Hague on 5 October 1961, and the Convention pertaining to minors' repatriation, submitted for signing at The Hague on 28 May 1970.

²⁶ The recent measures introduced with the D.P.C.M. no. 535, pertaining to the Alien UAMs Committee's duties, seem to delegate this competence to the mentioned institution, causing confusion with the provisions regulating the minor's notification and placement in care.

While it is clear that there is no single protective measure ideal for all children and that measures must be adapted to the specific individual needs of each child, four basic types of protection seem to be best suited to the various categories of unaccompanied minors analysed above. These measures are described below, together with the institutions in charge of the protection of the child, in the order in which they are generally deployed in the process of placing children in care.

2.4.1 Law enforcement agencies

The police and other law enforcement agencies are bound to report the situation of the minor to the judicial authorities:

article 33(5) of Italian law no. 476/98²⁷: “Should the minor enter the territory of the State in an unauthorised manner, the public official or the authorised body shall report or notify such facts to the Tribunal for Minors enjoying jurisdiction over the place in which the minor resides” ...

and to the Committee for Alien Minors:

article 5(1) of Italian Prime Ministerial Decree no. 535/99 “Public officials, persons engaged in public service and bodies, especially those providing healthcare or assistance services, who become aware of the entry or presence in Italy of an alien unaccompanied minor, shall immediately report such facts to the Committee ...”

as well as to remove the minor to a “a place of safety”:

article 403 of the Italian Civil Code “When a minor is morally or materially abandoned or when s/he is brought up in unhealthy or hazardous premises, or by persons who, by reason of their negligence, immorality, ignorance or other reasons, are incapable of providing for his/her education, the public authorities, through the institutions in charge of the protection of children, shall remove such a minor to a place of safety, until measures can be taken for his/her protection”).

Alien minors may not always correctly interpret the meaning of these measures: the presence of a uniform, the identification procedures to which they are subjected and their accompaniment to "first reception centres", may be perceived less as protection and more as a form of punishment (a sort of "arrest"). In the absence of a developed approach to childcare and clear explanations of the context, the minor placed in one of these centres as part of emergency protective measures, may "escape" at the first opportunity. Otherwise, mistrust of figures of authority, whose functions are not well defined, may encourage the minor to remain in a state of illegality or to seek help from other parties perceived as closer to the minor and more in sympathy with him/her (for instance, fellow nationals). As we shall see, this is one of the main mechanisms through which adult exploiters come into contact with their potential victims.

²⁷ 31 December 1998 law n.476: “Ratification and execution of the Convention on minors’ protection and co-operation pertaining to international adoption”, done in The Hague on 29 May 1993. Revisions to the 4 May 1983 law n°. 184, pertaining to the adoption of alien minors”. La segnalazione viene fatta normalmente dalle forze di Polizia, da altri servizi del territorio, da organizzazioni di volontariato o del *non profit* che operano nel settore della cura dei minori, dalle scuole, dagli ospedali, da cittadini o, talvolta, dagli stessi minori interessati a ricevere assistenza.

2.4.2 “Emergency units”

Many Italian municipalities – at least all the larger ones – are equipped with operating units specifically entrusted with taking into care minors in conditions of serious deprivation. These administrative units (that are labelled differently depending on the scope of their institutional tasks and the type of minor they target) are mainly placed in charge of co-ordinating and placing under one roof as it were, all the measures available in emergency situations. In particular, they become the reference point for reports of minors in difficulty²⁸ and for identifying the placement structure best suited to the minor's needs. At the same time, these units are in charge of reporting cases to the judicial authorities, which then adopt suitable protective measures (such reports are generally sent to the Public Prosecutor's office attached to the Tribunal for Minors, unless the case has already been reported by law enforcement agencies). Emergency units also contact the Embassy or Consulate of the minor's home country in order to determine whether protective measures have already been adopted with regard to the minor and whether or not his/her family has reported him/her missing. The institution at which the minor is accommodated is temporarily entrusted with his care and protection.

article 3 of Italian law no. 184/83: “The public or private assistance institution shall exercise protective powers over the minor accommodated or assisted by them in keeping with the provisions of Chapter I, Title X of Book I of the Italian Civil Code, until such time as a guardian is appointed and, in all cases, in which the exercise of parental authority or protection is impeded (see articles 402, 354 and 355 of the Italian Civil Code)”.

Social services initially responded to the growing demand for reception by increasing the number of beds available in structures offering accommodation (the municipality of Rome alone increased its beds from 10 at the end of the 1980s to 113 today). In the current political debate, this method of dealing with the problem is being questioned, since it risks being transformed into a factor encouraging the immigration of alien minors, without providing any long term solution for those already in Italy. For these reasons, it is currently viewed as more economically viable to experiment with other solutions and invest specifically in prevention. At present however, many reception centres are unable to respond to the demand for services and are often forced to invite minors to come back later or worse, to simply leave them to their own devices after having carried out the identification procedures. The minors forced to live precariously and in degrading conditions thus become extremely vulnerable and fall easy prey to potential exploiters.

2.4.3 The institutions of Juvenile Justice: Public Prosecutor's Office, Tribunal for Minors, and the Guardian Judge

Article 3 of Italian law no. 64/94, which ratifies the Luxembourg Convention on Decisions regarding the Placement in Care of Minors, states that temporary and urgent measures must be adopted by the Tribunal for Minors enjoying jurisdiction over the minor's place of residence. After receiving a report from law enforcement agencies or emergency units, the judicial authorities may adopt one of the following measures "in the best interests of the child":

²⁸ The notification is normally made by Police authorities, by other services on the territory, VOLAGS or non-profit making organisations active in the field of childcare, by schools, hospitals, citizens or, sometimes, by the minor.

a) Adoption

This is a little used measure with regard to alien unaccompanied minors, both because it is an "ordinary" and not an "urgent" measure (and therefore, has long term consequences on the minor's condition and his/her links, if any, with his/her birth family), and because it is very difficult to adequately evaluate the actual condition of the minor. This measure may be adopted only if the minor is "abandoned" within the meaning of the following article:

article 8 of Italian Law no. 184/83: "The Tribunal for Minors of the district in which a minor is found abandoned because s/he is deprived of moral and material assistance by his/her parents or relatives is bound to provide for him/her, may, even by right, declare the state of adoptability of such a minor, provided that the lack of care is not due to an Act of God and or unforeseeable circumstances of a temporary nature".

So-called "illegal alien" minors rarely fall into this category since their links with their respective birth families are generally intact (it must be borne in mind that they often leave their home countries with their families' blessing). Furthermore, particular care must be taken in evaluating the birth family, especially in the light of the fact that life-styles different from Italian ones are not always prejudicial to the minor. In making such evaluations therefore, account must be taken of the widest possible intercultural parameters so as to ensure that the *protective* measures are not translated into effects that are damaging to the minor in question. Despite this, adoption may be applicable in cases of serious deprivation or in the case of very young minors whose best interests lie in the opportunity to develop within a family context (albeit an adoptive family). The measure for adoption entails the issue of a residence permit for the purposes of adoption.

b) Guardianship

"Guardianship" is a measure ordered by the guardian judge if s/he deems it useful "in the best interests of the child". Even in the absence of a formal order, guardianship is in any case exercised "in fact", by the body entrusted with the care²⁹ of the minor. The measure is formally adopted only after the Guardian Judge (who is part of the District Magistrate's court) reports on the existence of one of the conditions stipulated in article 343 of the Italian Civil Code:

Article 343 of the Italian Civil Code: "If both parents are deceased or if for other reasons (see Italian Penal Code, articles 19, 32, 34) they are unable to exercise parental authority, guardianship devolves on the court of district magistrate of the district in which the child's effects and interests are mainly located".

It is not at present clear if long-term absence of the child's parents falls within the scope of application of the provision, since interpretations diverge on this point. Guardianship is generally declared in the name of the Mayor of the municipality in which the minor is found (the mayor then delegates this function to the municipality's guardianship office), or in the name of the legal representative of the institution in which the child resides:

²⁹ Art. 3, L. 184/83: "The public or private assistance institution shall exercise protective powers over the minor accommodated or assisted by them in keeping with the provisions of Chapter I, Title X of Book I of the Italian Civil Code, until such time as a guardian is appointed and, in all cases, in which the exercise of parental authority or protection is impeded (see articles 402, 354 and 355 of the Italian Civil Code)".

article 354 of the Italian Civil Code “Minors without known relatives at their place of domicile, capable of exercising guardianship, may be placed under the guardianship of an assistance institution of the municipality in which the minor resides or of an institution in which he is hospitalised (article 402 of the Italian Civil Code). The administration of the institution or hospital shall delegate such guardianship to one of their members.

Opinions diverge even with regard to this provision. If for some, “the case of an alien unaccompanied minor in Italy constitutes one of the precise situations for which guardianship must be declared so as to provide the minor with the assistance and the defence of his/her interests during administrative procedures that may lead to his repatriation or reception in our country”³⁰, others raise doubts and grey areas. In particular, there is the risk of placing children under guardianship without an effective corresponding capacity to "take the child in care". Furthermore, there is a persistent doubt that some requests for guardianship (as well as for placement in care) by self-appointed relatives or acquaintances of the child, may perhaps camouflage trafficking in human beings and exploitation of the minor.

These applicants for guardianship are in fact often merely "men of straw" who allow their names to be used for payment, or fellow nationals (if not from the home city or even village) of the minor, who against payment, offer themselves as guardians. At other times, instead of requiring payment, guardians may bind the minor to provide some "compensation" by way of delinquent activity or other "services" that often reduce the minor to a state similar to slavery (begging, commissioned thefts, prostitution, etc.).

A recent circular³¹ opens the door to a further risk, insofar as the indiscriminate placement under guardianship of all minors entering the country may be translated into a way of getting around the entry thresholds established under the new immigration law. Until very recently, placement under guardianship entailed a residence permit "for judicial proceedings" or "for family purposes" that allowed the minor to work and required the conversion of his/her residence permit into a fully-fledged work permit upon reaching majority. Currently, however, placement under guardianship only permits a residence permit because of the age of the minor, that cannot be converted into a fully-fledged work permit upon attaining majority, therefore curtailing further residence in Italy and ensuring that assisted repatriation is the only option available.

c) Placement in care (with families, individuals or bodies)

Placement in care is not "compulsory" but is only one possible form of protection. Article 2 of Italian Law no. 184/83 in fact stipulates that: "Minors who are temporarily deprived of a family environment *may be placed in care ...*"

Article 4 of the same law lays down regulations for placement in care. In particular, placement in care may be ordered by the local social services in the case of the consent of the parents or legal guardian (the Guardian Judge renders the order enforceable by issuing a decree) or by the Tribunal for Minors in the case where such consent cannot be obtained. Placement in care is a temporary measure; for the entire duration of the placement, social services must monitor the child's progress and report to the authority that ordered the placement.

³⁰ Decree of the Turin's Appeal dd. 10.12.1999, published and expounded in no. 1/2000 of the Magazine "Law, Immigration and Citizenship", edited by Franco Angeli.

³¹ Circular of the Ministry of Interior – Department of Public Security – Directorate General for the traffic, railway, border and postal police, 13.11.2000, N. 300/C/2000/785/P/12.229.28/1^DIV.

At the moment, it is the sole measure that allows for the issuance of a residence permit that allows for the full integration of the minor in Italy. It in fact entails the issue of a residence permit that allows the minor to work and that may be converted upon the minor's attaining majority into a residence permit for study, access to the labour market, employment or self-employment as well as for reasons of health (article 31(1) of Italian law no. 286/98, on the status of aliens). Given the importance of such a measure, there is a pressing need for statutory reform throwing light on the status of those minors who are "in fact"³² placed in care in Italy by their birth families in the home countries with other members of the extended birth family residing in Italy, such as cousins, uncles or other relatives within the fourth degree, who are often the first reference point for illegal alien minors entering Italy and who are in a position to make a decisive contribution to the minor's integration. The fact that such informal placement in care is not supported by official measures (and therefore does not open the door to the residence permit mentioned above), often leads these minors to declare themselves devoid of all reference points in Italy, with the following negative results:

- a) The children are placed entirely in the care of social services (while they could benefit from the help of relatives);
- b) The children risk losing their right to live in an environment that at least resembles their original family (that is to say, with the extended family in Italy).

On the other hand, it is rather difficult for the Italian authorities to check the identity of such self-styled relatives whose later behaviour is not subject to control (since the informal nature of the placement makes any kind of monitoring impossible). Amongst the proposals put forward at a recent convention on the subject³³, the following two recommendations seem most viable:

- To ensure that the Tribunal for Minors also issues a formal placement order pursuant to article 2 of Italian Law no. 184/83;
- To require that the relative be appointed guardian of the minor by the Guardian Judge and then requiring municipal social services to place the minor in the care of such a relative with parental consent.

2.4.4 The Committee for alien unaccompanied minors and instrument of assisted repatriation

The Committee for alien minors is an administrative institution set up in 1994 within the Department for Social Affairs at the behest of the Italian Prime Minister's Office. The Committee is made up of a Chairman and representatives of the Foreign Affairs, Interior and Justice Ministries, the Department of Social Affairs of the Prime Minister's Office, as well as two representatives of the National Association of Italian Municipalities (ANCI), a representative of the Union of Italian Provinces (UPI) and two delegates of the most representative NGOs operating in the field of family-related problems.

³² Art. 9 of law no. 184/83, para. 6° e 7° seems to foresee the possibility that the family of origin place their children in the care of other relatives without a formal measure. In fact art. 9 stipulates: "...the same notification must be done by one of the parents who places his minor child in the care of a relative within the 4° degree for a period of not less than 6 months..."

³³ 4 July 2000.

While the main function of the Committee has always been that of "protecting the rights of alien minors in keeping with the provisions of the Convention on the Rights of the Child³⁴", the tasks entrusted with the Committee have been extended and modified in recent years. The Committee was originally called upon to monitor the residence of alien minors temporarily permitted to stay in Italy within the framework of solidarity-based reception programmes promoted by Italian families, bodies or associations and to co-ordinate the tasks of the public administrations involved. With the promulgation of Italian Legislative Decree no. 113 dated 13 April 1999, however, the Committee's responsibilities were extended to also include alien unaccompanied minors in Italy "with regard to issues pertaining to the reception, assistance and assisted repatriation".

The reasons underlying this change are, on the one hand, the need to monitor and contain the growing phenomenon of illegal immigration, and on the other, in the need for a central institution capable of imparting unequivocal directives about how to deal with these minors. The decision of the State Council dated 30 July 1997, which entrusted the management of these children with local institutions that had taken them into care (until this date they were placed under the responsibility of the Italian Ministry of Interior), in fact gave rise to wide discretionary powers and glaring discrepancies in the way these minors were handled.

The tasks of the Committee are laid down in even greater detail in the Italian decree no. 535/99 that stipulates that the Committee must:

- a) monitor the conditions under which the children reside in Italy;
- b) co-operate and liaise with the various administrations involved;
- c) determine the status of separated alien children;
- d) undertake immediate investigations so as to identify family members of UAMs in Italy, including through enquiries in their native or other countries, with the collaboration of suitable domestic and international agencies³⁵;
- e) make decisions, on the basis of the information obtained, regarding assisted repatriation "in the interest of protecting and ensuring the right to family unity";
- f) conduct a census of UAMs in Italy.

There is little doubt that assisted repatriation is the most problematic issue at present³⁶. Certain operators view repatriation as a veiled form of deportation, while others feel that this measure does not respect the migratory intention of the minor and, in the ultimate analysis, of his/her overall intentions (even though the law requires the minor to be consulted before repatriation may be ordered). For children sent to Italy by their parents for the very purpose of contributing to the welfare of the entire family, repatriation is synonymous with total failure since, in many cases, the task of helping provide for their families is in itself a source of great pride (they become the "adults" to whom the family turn for help). On the other hand, one must also determine to what extent remaining in Italy is the desire of the child and to what extent it is the wish of his/her family!

³⁴ Art. 2 of Legislative Decree no.113 of 13 April 1999.

³⁵ Since 1998, the Committee has concluded a convention with the International Social Service (ISS) concerning the repatriation of Albanian minors. ISS conducts investigation on the family of origin and provides all necessary services to support the minor's smooth re-entry in the country of origin.

³⁶ "Assisted repatriation" is meant to be the overall measures adopted to guarantee the minor the necessary assistance to re-join his/her family or his/her re-placement with the local authorities responsible on the basis of international and local legal provisions. Repatriation must aim at family reunification and at adopting all necessary protection measures (art. 1, para. 4 D.P.C.M. n. 535, 9 December 1999).

Further clarification is doubtless required on a wide range of aspects concerning assisted repatriation: for instance, greater reflection is required on whether this instrument is to be preferred over other forms of the minor's protection or if it is to be used only in the case where the institution placed in charge of the minor, specifically requests assisted repatriation; consideration must also be given as to whether a real effort to reintegrate the minor in his/her home country is made, or if the case is considered closed as soon as the minor crosses the border; if the decision to repatriate the minor ought to be taken at the central or local level, etc.

3. TRAFFICKING IN HUMAN BEINGS ESPECIALLY MINORS

3.1 DEFINITIONS AND LEGAL FRAMEWORK

“The term "trafficking in human beings" refers to a new criminal market consisting in the recruitment, unlawful transfer – and later introduction – mainly for profit, of one or more individuals from the territory of one State to another, or within the same State - [...] Such transfer may be followed by activities aimed at the sexual or economic exploitation of the migrants, brought about through force, fear or fraud³⁷”. This phenomenon is usually divided into the categories of smuggling of migrants and trafficking in human beings.

In the case of smuggling, it is the potential migrant who first contacts the trafficker who, for payment, helps the migrant to illegally enter the country of his/her choice. In the case of trafficking, on the other hand, the migrants are recruited upon commission, by force, fear or fraud, so as to satisfy a market demand in the country of destination. The relationship between the exploiters and the exploited, therefore, continues after arrival and features forms of servitude, deprivation of dignity and loss of freedom, imposed on the migrant.

The distinction is justified both because of the features distinguishing the two phenomena, and by that the fact that in Italy they come under the jurisdiction of different institutional organs. In particular, investigations into the trafficking in human beings for the purposes of exploitation, are co-ordinated by the Central Office of the Criminal Police (under the Italian Ministry of Interior, Department of Public Security), while the smuggling of migrants is under the Immigration Office (Department of Public Security). This in-house division, together with the low level of communication and co-ordination between the two operating units, may, to some extent, hinder a full understanding of the issues involved. The divide that separates the smuggling of migrants from the trafficking in human beings is, indeed, narrow: for instance, it is not uncommon for persons who, having personally approached traffickers for help to migrate, then find themselves reduced to a life of slavery, exploited by traffickers with whom they have contracted debts in order to finance the costs of their transport to greener pastures.

A full understanding of smuggling of migrants, trafficking in human beings and the later exploitation thereof – especially in the sex trade – requires an overview that places national legislation within the wider context of the international initiatives undertaken by the Italian government.

³⁷ Ministry of Interior, Chamber of Deputies, XIII legislation, Parliamentary Investigating Committee on the phenomenon of the *mafia* and other similar criminal associations, *Report on trafficking in human beings*, approved by the Committee on 5 December 2000, page 4.

3.1.1 International initiatives

The Italian government was party to the following major international initiatives aimed at counteracting trafficking in human beings:

December 1948: signing of the Universal Declaration of Human Rights (article 4 "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms");

August 1996: World Congress Against the Commercial Sexual Exploitation of Children, held in Stockholm. Italy committed itself, amongst other things, to introduce the principle of supranational jurisdiction over sexual offences against children;

October 1997: The Amsterdam Treaty;

April 1997: Inter-Ministerial Conference on Co-operation in the Fight against Trafficking in Human Beings, especially Women and Children for the purpose of Sexual Exploitation;

May 1998: agreement between Italy and the US that binds both governments to set up a bilateral task force and adopt measures necessary to combat the phenomenon of trafficking in women and children: in particular, exchange of information, awareness-raising campaigns in the countries of origin, joint training of law enforcement agencies;

June 1998: at the behest of Italy, trafficking in human beings is included as a form of enslavement in the Statute of the International Criminal Court, and thus becomes a crime against humanity;

Vienna 1999: debate on the UN Protocol on trafficking in human beings;

June 1999: during the debate mentioned above, Italy supported the adoption of a special protocol on trafficking in human beings and proposed an improvement in the protection and assistance extended to victims, in keeping with article 18 of the Italian Aliens Law;

January 2000: in Vienna, Italy supported the notion that trafficking in human beings ought to be treated as a new form of enslavement (in keeping with article 600 of the Italian Penal Code);

November 2000: entry into force, within international law, of Convention no. 182 of the International Labour Organisation on the "worst forms" of child labour;

December 2000: in Palermo, Italy signed the Convention against transnational organised crime and the Additional Protocols on the smuggling of migrants and the trafficking in human beings.

3.1.2 Domestic legislation

Statutory provisions against the smuggling of illegal immigrants

Italian domestic legislation against the smuggling of illegal immigrants is consistent with the rest of the European Union, in terms of both views and co-operation³⁸. Through the Aliens Law, the Italian government clearly signals its commitment to combating the phenomenon, providing for the penal conviction of offenders guilty of the illegal transport of migrants, even for purposes other than financial gain.

Article 12 of the Aliens Law stipulates:

“ Except in the case of a more serious offence having been committed, any person who directly undertakes to promote the entry of aliens into Italy in violation of the provisions of the present Single Text, shall be punishable by rigorous imprisonment of up to three years and a fine of up to thirty million Italian Lire”.

In the case where the illegal transfer of migrants is undertaken for gain, the offence is punishable by imprisonment from four to twelve years and a fine of thirty million Italian Lire for *each alien*

³⁸ With regard to EU Member States, an important element of cohesion is the implementation of the Schengen Agreement (art. 27, Schengen, 19 June 1990).

transported. In the case of *flagrante delicto*, arrest is compulsory, the vehicle used for the offence must be confiscated and trial is by summary procedure.

3.1.3 Provisions against trafficking in human beings

The situation in the case of "trafficking", on the other hand, is more complex since the offence is not specifically dealt with in any statutory provision. This offence is punishable under a series of provisions dealing with bodily harm and sexual offences, kidnapping, the exploitation of and abetting prostitution and living off the earnings of prostitution as well as other offences related to the phenomenon. In particular, reference must be made to³⁹:

- article 600 of the Italian Penal Code: the offence of enslavement;
- article 601 of the Italian Penal Code: trafficking and trade in slaves;
- article 9 of Italian Law no. 269 dated 6 August 1998: trafficking in children for sexual exploitation;
- articles 6 and 7, as well as article 3(1) of Italian law no. 75/1958 (the Merlin law⁴⁰);
- article 12(3) of the Aliens Law no. 286/98: provisions against illegal immigration.

The situation changes further when minors are specifically involved. Italy has in fact amended the legal framework applicable to sexual offences so as to improve the protection of children from this category of offence that is particularly odious and harmful to the physical and psychological well-being of children. Reference must be made in particular to Italian law no. 269/98 ("*Provisions against the exploitation of prostitution, pornography and sexual tourism involving minors, as new forms of enslavement*") and the amendments to article 600 and 601 of the Italian Penal Code, introduced by this law. An overview of the law and other relevant provisions, especially those contained in Italian law no. 66/1996 on sexual offences, is provided below.

Article 600 of the Italian Penal Code

"Any person who reduces another to slavery or to a condition similar to slavery, is punishable by rigorous imprisonment of between five and fifteen years."

The limits of this article consist mainly in the fact that it is rarely applicable to the real conditions of women subject to trafficking, since the article is not applicable in the case of "strong psychological conditioning *that does not however negate the person's capacity of voluntarily* escaping from the exploitation to which such a person is subjected⁴¹".

Article 601 of the Italian Penal Code

"Whosoever trafficks or otherwise trades in slaves or persons in a condition similar to slavery, shall be punishable by rigorous imprisonment of five to twenty years."

In order to overcome the limits of the application of article 600 and in the light of the specific nature of the condition of children, Italian law no. 269/98⁴² amended article 601 of the Italian Penal Code, with the introduction of a paragraph that refers specifically to children:

³⁹ See also articles 416 e 416-*bis* penal code pertaining to the crime of criminal association and criminal association of the *mafioso* type because of the typical structure and modus operandi of these criminal organisations.

⁴⁰ Law of 20 February 1958, n.75: "Repeal of regulation of prostitution and combat of the exploitation of the one's involved in prostitution".

⁴¹ Ministry of Interior, *Report on trafficking in human beings*, cited, page 77.

⁴² Law on sexual exploitation of minors, child pornography and sex tourism.

"Whosoever trafficks or otherwise trades in children under the age of eighteen so as to induce them into prostitution shall be punishable by rigorous imprisonment of six to twenty years ".

The innovation introduced through the new paragraph consists in the fact that it is no longer necessary to prove that the victim is reduced to slavery or a similar condition, since it is sufficient to show that the victim is under eighteen years of age and that the aim was to induce the minor victim into prostitution⁴³.

As pointed out above, the amendments to article 601 of the Italian Penal Code were introduced by Italian law no. 269/98, enacted to promote the following goals:

- to concretise the provisions of the New York Convention (protection of minors and their right to harmonious development);
- to protect minors from sexual exploitation;
- to increase the punishment applicable to such offences;
- to clearly indicate Italy's position with regard to such phenomena.

For the purposes of this report, the offence of child prostitution (punishable under article 602-*bis* of the Italian Penal Code), heralded by the offence of trafficking in minors reviewed above, is one of the most interesting new offences (that include child pornography, sexual tourism, etc.) under Italian law no. 269/98, and is dealt with in article 3, that stipulates: "Whosoever induces a person under the age of eighteen, into prostitution or promotes or exploits the prostitution thereof, shall be punishable by rigorous imprisonment of six to twelve years and by a fine of between thirty million and three hundred million Italian Lire. Save in the case where a more serious offence is committed, whosoever engages in sexual acts with a minor of between fourteen and sixteen years for payment or other economic consideration, shall be punishable by rigorous imprisonment of six months to three years or by a fine of not less than ten million Italian Lire. Such punishment shall be reduced by one third in the case where the person committing the offence is a minor under eighteen years of age".

The aforesaid article also provides for specific instruments of protection for minors forced into prostitution. In particular, judicial authorities ("*The Public Official or person in charge of public services, shall, upon learning that a minor under eighteen years of age is engaged in prostitution, give immediate notice thereof to the Public Prosecutor's Office at the Tribunal for Minors*") must take immediate protective action (including placement of the minor under guardianship, if necessary). The Tribunal for Minors shall order any and all assistance (including psychological counselling) required for the recovery and rehabilitation of the minor in question. In urgent cases, the Tribunal for Minors may proceed by right. In the case of trafficking in alien children, the authorities of the country of origin of the children involved must be contacted.

The article extends the scope of the provisions of the Merlin law⁴⁴ against exploitation of prostitution and covers all cases of child prostitution. Therefore, the offences of inducement, abetting and exploitation⁴⁵ of prostitution must be considered alternative facets of the same offence.

⁴³ Riviezzo, C., Comment to the 3 August 1998 law, n. 269, *Provisions against exploitation of minors through prostitution, child pornography and sex tourism as new forms of reduction to slavery*, in Gazz. giur., 1998, fasc. 33, page 7.

⁴⁴ 20 February 1958 law, n.75: "Repeal of regulation of prostitution and combat of the exploitation of prostitution".

⁴⁵ Every single behaviour is considered as a specific offence, as reported by Pittaro, P., cited, page 1225.

The article introduces an innovation in that even clients of child prostitutes are punishable, with specific provision for the punishment of each and every episode⁴⁶.

Article 609-quater of the Italian Penal Code

This article was introduced by Italian law no. 66/1966⁴⁷ on sexual offences and makes it a punishable offence for any person to engage in sexual relations with a child under the age of fourteen, regardless of whether payment or other consideration is involved.

Furthermore, under article 609-sexies, in the case of sexual relations with a child under fourteen years of age, the "offender may not raise in his defence, the fact that he was unaware of the age of the victim". The same applies, by extension, to clients of child prostitutes under the age of fourteen.

Italian Law no. 75/1958 (The Merlin Law)

This law entailed the closure of establishments in which prostitution was practised. Article 3 specifies that offenders be punishable by rigorous imprisonment from two to six years and a fine of Italian Lire 500 000 to 20 000 000. Paragraphs 6 and 7 of this article are particularly relevant to the issues dealt with in the present report.

(6): "Whosoever induces a person to travel to another country or a place other than the person's usual residence for the purpose of engaging in prostitution or takes any action to facilitate the departure of such person for such a purpose"

(7): "Whosoever engages in activities within domestic or overseas associations or organisations aimed at the recruitment of persons for prostitution or at the exploitation of prostitution, or in any way and by any means facilitates or promotes the activity or aims of the aforesaid associations or organisations"

Article 12(3) of the Italian Aliens Law

Trafficking in human beings for the purposes of sexual exploitation is lastly punishable under article 12 of the already cited Aliens Law, in which it is described as an aggravating factor to the offence of the illegal introduction of aliens into Italy.

"...If the offence (illegal introduction of aliens) is committed for the purposes of recruiting persons for prostitution or for the exploitation of prostitution or in relation to the entry of minors to be employed in unlawful activities so as to promote their exploitation, the punishment shall be rigorous imprisonment of five to fifteen years and a fine of Italian Lire fifty million for each alien whose entry into Italy has been facilitated in violation of the present Aliens Law."

3.1.4 Future developments

The Justice Commission of the Italian Chamber of Deputies is currently debating a new bill that specifically deals with the new and specific crime of trafficking in human beings for the purpose of sexual exploitation and that entails the abrogation of article 601 and 602 of the Italian Penal Code, introducing new language for article 600 of the Italian Penal Code. Under this bill, the notion of *slavery* is distinguished from *servitude* and the punishment inflicted entails imprisonment for eight

⁴⁶ Pittaro, P. "Provisions against paedophilia". A) Provisions of substantial law, in *The penal Law and process*, 1998, page 1226.

⁴⁷ Law n. 66 of 15 February 1996 apart from establishing that the crime of sexual abuse is a crime against the individual and not against public morality, also introduced specific details pertaining to punishment of those who abuse minors. Also provided for is "protected hearings", i.e., the possibility for the minor to deliver his/her testimony in a safe environment, far from those who presumably abused him/her.

to twenty years. The bill defines slavery as "*the condition of a person subjected, even merely in fact, to powers corresponding to those arising under property or other real rights or the condition of a person who is subjected to the treatment of a chattel*". According to the text of the draft law, servitude is "*the condition of subjection of a person forced or induced to provide sexual or other services*". The bill therefore defines a new offence ("trafficking in human beings") and introduces it into the Penal Code under article 602-*bis*.

The main advantage of the above definition consists in the possibility of placing the offence in the category of offences subjected to the jurisdiction of anti-*mafia* district prosecutor's offices dealing with *mafia* criminal organisations. This would lead to a concentration of information gleaned from investigations of such offences, greater international co-ordination and co-operation as well as access to the investigative instruments available for the detection of organised crime. These instruments may be of prime importance, in the light of the large number of difficulties in investigating offences of this type: in particular, Italian law enforcement agencies complain of difficulties in tracing offenders outside State borders and highlight the sluggish flow of key information between the law enforcement agencies of the various countries. Other complaints include the lack of reliable translators sufficiently trained to deal with investigative requirements, the risks to which such translators are exposed, uncertainty about the identity of the victims and perpetrators as well as the fact that witnesses are often untraceable⁴⁸.

3.2 THE MECHANISMS OF TRAFFICKING IN HUMAN BEINGS

3.2.1 The structure and functioning of criminal organisations

The emergence and mushrooming of these criminal organisations is rather recent and is linked to the co-existence of three main factors: firstly, demand in countries of destination for sexual services for payment; secondly, the increase, after the collapse of the Iron Curtain, of demand for emigration; thirdly, the gradual closure of legal access to countries attractive to immigrants. Illegal immigration and trafficking may in fact be viewed as "markets" featuring demand and supply. In the case of the smuggling of illegal immigrants, the demand is from illegal immigrants themselves who are the "subjects" of the services supplied by criminal organisations. In the case of trafficking in human beings, on the other hand, the immigrants are the "objects" of the demand in the countries of destination, for the unlawful services that, amongst other things, are highly profitable to their criminal suppliers.

With regard to Italy, the situation is largely dominated by Albanian, Russian, Turkish, Nigerian and Chinese criminal organisations, and features rising tensions between various foreign crime networks for control of the illegal market, especially for drugs and prostitution. Once dependent on the Italian criminal networks, these foreign crime rings have now reached a point where they collaborate with the Italian *mafia*, that generally provide specific services on commission to smaller local criminal organisations.

Criminal organisations specialising in trafficking in human beings generally feature the following main characteristics:

⁴⁸ Ministry of Interior, *Report on trafficking in human beings*, cited, page 69.

They are **modular**, featuring varying degrees of complexity that interact in a non-hierarchical manner so as to pursue their final goal, that is to say, profit. In particular, three basic levels may be identified:

High level (or ethnic-based) organisations⁴⁹ that plan and manage the transport of their fellow citizens from their countries of origin to the country of destination. They specialise in transferring people from one continent to another (Asia, the Indian Sub-Continent, Africa, etc.), so as to later exploit them sexually, or through bonded labour, involvement in low level criminal activities and begging (this is especially the case with East European mafia organisations specialising in the trafficking of young women destined for prostitution and the Turkish *mafia* that specialises in the illegal transport of Kurdish migrants). The members of these organisations generally live abroad and can avail of large amounts of cash, accumulated mainly through other criminal activities. They basically limit themselves to recruiting the illegal immigrants in their countries of origin and taking charge of them once they have arrived in their country of destination, so as to deliver them to their exploiters. For this purpose, they select lower level organisations with which they stipulate collaboration contracts using a precise "price list" for the services rendered. Lastly, they manage contacts with the political, diplomatic, business and financial communities so as to corrupt or coerce government officials or businesses into collaborating with them.

Middle level organisations that operate in strategic territories (on the borders of the countries of destination or other countries that must be crossed so as to gain access to the European Union). These organisations are in charge of travel operations that require excellent knowledge of the terrain as well as a consolidated network of criminal relationships. These are the organisations that provide false documents, corrupt border police, choose the routes, methods and means of transport to be used, select and make contact with lower level local organisations that then concretely carry out the transport (these include the so-called Albanian boatmen and Slovene guides).

Low level organisations: work both for higher level organisations and on their own, arranging for the passage of migrants for payment. They often include local operators (taxi drivers, guides, etc.) and deliver the victims of trafficking into the hands of the ethnic organisations that then take it upon themselves to extort – even using violence – the price of passage from migrants who used these services so as to gain illegal access to the country of destination.

They are **specialised**, that is to say, they use advanced technology and highly skilled human resources in various fields. In particular, they require transport personnel (boatmen, drivers, couriers, etc.), persons capable of procuring or falsifying documents (bureaucrats, diplomats, counterfeiters, etc.), persons capable of managing and reconvertng funds as well as persons with in-depth knowledge of the immigration laws in the countries of origin, transit and destination.

They are **flexible**, insofar as they must be able to face unforeseen obstacles that may arise from time to time during their activities (changes in the number and countries of origin of the migrants, changes in laws and regulations, varying degrees of efficiency of law enforcement agencies, etc.).

The funds accumulated by these organisations are partly recycled within legal economic-financial circuits (thanks to qualified professionals and advanced technology), partly re-invested so as to ensure that the illegal process is perpetuated (purchase of vehicles, recruitment of new traffickers,

⁴⁹ General Prosecutor's Office in Trieste, Anti-*mafia* Directorate, Report on activities of the Working Group on smuggling and crimes connected to smuggling, Years 1998 and 1999, Trieste, 4 March 2000 (Doc. 1831.0), page 12.

corruption of officials, diplomats, politicians, law enforcement officers) and in part re-invested in other illegal activities, especially drug and arms trafficking⁵⁰.

3.2.3 Factors affecting the vulnerability of minors and methods used by traffickers to ensure their servitude.

In order to generate profit from the "human commodity" available to them, traffickers must ensure the absolute obedience of their victims. This is generally obtained through:

Force. Physical, psychological and sexual violence is used mainly to compromise the dignity and physical-psychological independence of the victims, to such an extent that they are in fact reduced to a state of slavery. Force is also used to discourage any form of rebellion (escape, collaboration with law enforcement agencies) or trickery (payment of earnings to other exploiters) and to punish any failure to generate the pre-set daily target amount of earnings.

Fear: Fear often takes the form of threats against family members in the country of origin. Traffickers rely on the fact that if the victim does not collaborate as required, they can easily use various forms of violence against the victim's family members back home. Furthermore, illegal immigrants are subjected to blackmail because of their illegal status: they are told that travel documents will not be returned to them or that they will be reported to the authorities and deported. In the specific case of girls subjected to sexual exploitation, threats are often made of showing their families at home, video tapes or photographs of the life they are forced to lead in Italy. Nigerian girls are especially vulnerable to threats in the form of voodoo curses. In any case, the effectiveness of the threat depends on the large gap of information available to the victim: the larger the gap, the more credible the trafficker's threat. Illegal immigrants are often unaware of the real ability of the trafficker to carry out his/her threats, since the migrant is often totally ignorant of Italian laws and tends to overestimate the rigidity and efficiency of deportation measures, while underestimating or totally ignoring the protection afforded him/her in the case of rebellion against his/her tormentors.

Fraud: Fraud ranges from false information regarding the price of passage to incorrect information about the country of destination (the legal system, the behaviour of law enforcement agencies) and about the state of health and living conditions of family members back home. In some cases, migrants are transported to countries other than the country originally promised. Many girls forced into prostitution were convinced to leave their home countries by promises of legal gainful employment in Italy or of marriage or betrothal that, upon arrival, proved to be non-existent. Immigrants returning home are often responsible for promoting false or exaggerated ideas about life in their host countries: rather than face the shame of owning up to their failure in settling overseas (or for fear of being refused by their birth families, in the case of girls subjected to trafficking for the purposes of sexual exploitation), they often lie about their lives away from home and encourage false expectations in other potential migrants.

All this is exacerbated by the critical condition of minors upon arrival in Italy: in most cases they cannot speak Italian, do not know who they can trust, are not allowed to venture far from their exploiters or the places in which they are held, and find themselves in a state of total illegality. Their "ignorance" of the context, combined with the psychological brainwashing they are subjected to as well as the constant risk of falling into the hands of law enforcement agencies, hinders them from rebelling and seeking help: paradoxically, they are sometimes in a position in which they can

⁵⁰ Ministry of Interior, *Report on trafficking in human beings*, cited, page 77.

only turn to their exploiters, often fellow nationals who at least speak their language and seem to offer some form of protection (against deportation, checks by law enforcement agencies, etc.) and a means to eke out a miserable living that is still sufficient to allow them to send small amounts of money back home.

Special mention must be made of those minors who, to some extent, "accept" being exploited because of their need – or desire – to migrate, which cannot be financed by their families or communities back home. These potential migrants, devoid of funds and social networks capable of caring for them upon arrival in the host country, sometimes voluntarily submit to certain forms of exploitation so as to pay back the traffickers providing them passage and gain access to earnings, albeit meagre, that they would not otherwise be able to generate. This is often the case, for instance, amongst minors who act as drug carriers: by accepting to transport even large quantities of drugs, they not only earn a free passage to a new life, but also have a means of rapidly earning money to send back home. These children are often forced into delinquency, not only because of poverty and/or a lack of other opportunities, but also because they have been deliberately misled about the Italian penal system. Unscrupulous exploiters convince them to deal in drugs or commit other crimes by explaining that, as minors, they cannot be punished under Italian law and that, even if arrested, they would be merely placed in a reception centre from which they could easily escape.

One must further consider how these offences are perceived from the child's viewpoint: many juveniles view 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. Furthermore, it must be underlined that minors who tacitly seal a pact with their "exploiters", generally do so in the belief that their servitude is only temporary and will come to an end after a certain period of time. This is often merely a trick to get them to work in the first place: many juvenile illegal immigrants soon find themselves immersed in ever increasing debt from which they have no hope of escape, especially since the debt increases day by day for the "assistance" that the exploiters extend to their victims. In the case of Nigerian girls forced into prostitution, for instance, the debt increases for the food, lodgings and healthcare that they require.

In general, the degree of servitude to which illegal immigrants are subjected and their relationship with the trafficker, depends to a great extent on their bargaining power: if the illegal immigrant can fully pay for his/her passage and knows s/he can count on a social network upon arrival (family members, friends capable of helping him/her, etc.), it is highly probable that the relationship with the trafficker will end upon his/her arrival in Italy or soon thereafter. If, on the other hand, the illegal immigrant is devoid of such funds, the type of relationship s/he has with his/her trafficker may vary considerably from case to case, depending on the amount of his/her debt. Lastly, if the immigrant has been transported on the basis of fraud or force, the link of dependency with the trafficker tends to endure over time and assume features similar to fully-fledged reduction into slavery⁵¹.

In order to complete the picture, one must bear in mind the significant proportion of minors whose "exploitation" and dependence on the criminal network, starts after they have arrived in Italy from their home countries by their own means: this form of recruitment is typical of minors involved in delinquent behaviour. In such cases - as in the case of migrants who accept to repay the debt incurred with the trafficker for their passage by temporarily working illegally on the unofficial

⁵¹ As per the available sources of information, it seems that the number of migrants without any financial resources and forcibly introduced into the national territory is in a minority with respect to the overall migratory influx.

labour market - the relationship between the trafficker and the illegal immigrant at first seems harmonious and based on their common interest. Recent research suggests that employers taking on illegal workers are perceived by the latter as heroes worthy of loyalty. In these early phases, the solidarity, mutual loyalty and "omertà" (code of silence) regarding the illegal contract seem to be equally advantageous to both parties. Conflicts arise when the illegal alien minor realises that s/he has been misled with regard to the duration and terms of the relationship. The conflict deepens, as the minor realises that the debt will never be fully re-paid, or is gradually increased by interest, or that the terms agreed to were a mere bluff (for instance, when a minor accepts to dedicate himself to begging in the belief that a part of his/her earnings will be paid by the traffickers to his/her parents back home, only to learn that this is not the case), is often snipped in the bud by the trafficker, either by force or fear.

3.2.4 The trafficking routes

Illegal immigrants cross the border either apparently legally⁵² (using false papers or temporary visas for tourism or study) or illegally, often undertaking very dangerous voyages broken into various stages during which the illegal immigrants – especially women destined to work as prostitutes – are subjected to all sorts of violence (hunger, beatings, rape...).

Entry into Italy is mainly gained through one of the following routes:

The Italian-Slovene border: Illegal immigrants crossing this border generally come from Central and Eastern Europe (Yugoslavia, Romania, Bosnia, Macedonia, Moldavia, Bulgaria), the Middle East (Kurds from Turkey and Iraq), the Indian sub-continent and Asia. Investigations indicate that illegal immigrants from Ukraine, Moldavia and Russia are mainly women – many of them minors – who are later forced into prostitution on the streets⁵³. The border is crossed thanks to guides who are very familiar with the wooded paths that require the illegal immigrants to travel long distances on foot. Other possibilities include the use of cars, buses, vans or trucks with a false bottom or specially built false walls. The Public Prosecutor's Office in Trieste, by reconstructing the routes followed by these illegal immigrants, found that most of those from the former Soviet Union are assisted by Slovene organisations which, after picking up a group of illegal immigrants in Kiev, in the Ukraine, pass them through Romania, Hungary, Croatia and Slovenia, before they end up in Italy⁵⁴. In particular, the women recruited for the sex trade are transported to Budapest and held in houses maintained by the traffickers. From there, they are then led to the border between Hungary and Slovenia, then transported to Ljubljana and into Italy to be delivered to the exploiter who commissioned their recruitment.

The Italian-French border: This border is used especially for the entry of North African or Sub-Saharan immigrants who entered Europe illegally by crossing the Straits of Gibraltar by bus or other vehicles with false walls to hide them. This route is also used by traffickers for the entry of young Nigerian women destined for prostitution. These young Nigerians often travel by air to France using false documents and then take the train to Turin, considered one of Italy's major arrival points for young Nigerian women.

⁵² "The legal method is usually used to introduce in Italy young women coming from Eastern and Central Europe who are exploited in the sex trade both on the streets and "hidden" inside night clubs, massage parlours, club privé". Ministry of the Interior, *Report on the phenomenon of organised crime*. Year 1996, XIII Legislation, Doc.XXXVIII-bis, Rome, 1997, page 459.

⁵³ Anti-*mafia* Directorate at the Trieste Tribunal, "Combat of transnational organised crime. Clandestine ethnic immigration", July 2000 (DOC. 2038/1), page 4.

⁵⁴ I. Kennedy-P. Nicotri, *Lucciole nere. Le prostitute nigeriane si raccontano*, Kaos, Milano, 1999, page.35.

The Apulian coast: Apulia and the Salento areas have always been involved in transnational crime because of their proximity to the Balkan coast. Besides serving as a transit point for arms, drugs and contraband cigarettes, the area is also a stepping stone for a large number of illegal immigrants, especially from Vlorë in Albania, the departure point of most rubber dinghies loaded with illegal immigrants⁵⁵. The illegal immigrants (mainly Albanians but also Kurds from Turkey or Iraq) are transported in rubber dinghies fitted with very powerful outboard motors that can accommodate between 30 and 40 people. According to veterans of the voyage, these two-hour trips are almost always undertaken at night at the cost of 3 to 5 million Italian Lire per head. Close to the coast, the illegal human cargo is rapidly offloaded several metres away from the coast, without regard for the age or health of the immigrants, who are then accompanied to the train stations of small villages or delivered to the criminal organisations that commissioned their recruitment.

Apulia serves as the landing ground for a large number of women destined for prostitution. In particular, this coast serves as an entry point not only for young women from Albania, but also from Latin America, Africa (Ghana, Liberia, Nigeria), Eastern Europe (Georgia, Kazakhstan, Moldavia, Ukraine, Russia, Romania, Bulgaria, Hungary) and the former Yugoslavia (Slovenia, Macedonia, Montenegro, Kosovo). The fact that girls from so many countries converge on Vlorë indicates that Albania, besides being the operating base of various types of traffickers, has also become the largest – and almost monopolistic – base of the sex trade⁵⁶. Lastly, another feature of these voyages must be highlighted: the dinghies do not only carry human cargo, but also drugs, mainly marijuana, hashish, cocaine and heroin⁵⁷. It is therefore not uncommon for illegal immigrants, especially minors, to decide to pay for their fare by acting as drug carriers or by accepting to work as drug dealers upon arrival in Italy.

The Calabrian Coast: Illegal immigrants reaching the Calabrian Coast are mainly Kurds from Iraq and Turkey who arrive mainly in old vessels departing especially from Lebanese and Turkish ports that are then abandoned close to an Italian port until rescued by the Italian coast guard. For most of these illegal immigrants, Italy is merely a transit point along the way to the final destination, generally Germany or North America.

The Sicilian Coast: The illegal immigrants, coming especially from North and Sub-Saharan Africa and, to a lesser degree from Arab countries, are transported aboard Tunisian fishing vessels that offload their human cargo by the islands of Lampedusa and Pantelleria or along the south western coast.

3.3 THE EXTENT OF THE PHENOMENON

At present, precise and reliable statistics on the trade in human beings are not available. Data provided by Italian and international investigative agencies are generally complemented by a range of estimates drafted by various international bodies and NGOs. The reliability of these figures is however subject to doubt because of a large number of faults in the way they are collected: besides differing widely, the figures often provide a worldwide or at least supra-national overview, making

⁵⁵ Cfr. Report of the hearing on 19 January of the Working Group on transnational organised crime, by Mr. Nicola Simone, stated that the speedboats normally leave from the northern and southern coasts of the Vlora Gulf.

⁵⁶ Report of the hearing on 19 January of the Working Group on transnational organised crime, by Nicola Maria Pace and others, page 3.

⁵⁷ Ministry of Interior, Department of Public Security, General Directorate for anti-drugs services, international trafficking of drugs by Albanian groups present in Italy, Rome, April 1999, Prosecutor's Office in Lecce.

it exceedingly difficult to clearly estimate the number of migrants who arrived or transited through each of the countries concerned.

The most significant statistics, released by the Italian Ministry of Interior, refer to the number of illegal immigrants who landed on the Italian Coasts of Apulia, Calabria and Sicily in 1999 and in the first eight months of 2000 (figures updated up to 30 September 2000). These figures provide an estimate of the number of alien minors who reached Italy, since data relating to men are recorded separately from those on women and children. Unfortunately, the figures do not indicate how many of these children were accompanied and how many were separated.

In 1999, **16 551** minors landed on the aforementioned Italian coasts, accounting for 33% of the overall number of new arrivals of illegal immigrants. Most of these minors landed in Apulia (15,843). In the early months of 2000 on the other hand, the number of arrivals dropped drastically⁵⁸, with just **3 648** new arrivals. Again most of these minors landed in Apulia (2 330), although the number of minors landing in Calabria increased significantly (1 269 in 2000 as opposed to 576 in 1999).

A shift in trends has been noted between 1999 and early 2000 in terms of the country of origin of these arrivals. In 1999, out of a total of 15 843 minors who arrived in Apulia, **9 958** were Kosovar, **2 815** were Montenegrin, **1 297** were Iraqi and **1 084** were Albanian. The majority of minors arriving on the Calabrian coast were Turkish (**406** out of 576) and Iranian (**139** out of 576), while those arriving on the Sicilian coast were almost all from Turkey (**101** out of 129). In 2000, these trends seem to have changed to a certain extent: out of a total of 2 330 minors who arrived in Apulia, **869** were Kosovar, **573** were Albanian, **422** were Kurds from Iraq, **193** were non-Kurdish Iraqis and **124** were Kurds from Turkey. Almost all the minors arriving on the Calabrian coast were Kurds (out of a total of 1 269 arrivals, **557** were Kurds from Iraq and **527** Kurds from Turkey). The Sicilian coast saw a drastic drop in the number of illegal arrivals: out of a total of 49 arrivals, 13 were Tunisians and 12 Moroccans.

From a qualitative viewpoint, it is clear that there has been a drastic drop in the number of illegal migrants attempting to enter Italy through the country's southern coastline. However, although the number of arrivals in Apulia dropped dramatically, the Calabrian coast saw an increase, while arrivals via the Sicilian coast were almost exclusively adult men, with an insignificant number of women and children.

With regard to the Italian-Slovene border, the only data available are based on accounts by the Public Prosecutor's Office in Trieste, which according to its own investigations, estimates that 35,000 illegal immigrants cross that border into Italy every year⁵⁹. This overall figure however is not broken down and no reliable estimate of the number of minors can be made, although the figure is in any case interesting insofar as, according to the investigators, most of the young women from Central and Eastern Europe crossing this border are destined for prostitution and a large number of them are minors⁶⁰.

⁵⁸ It is worth mentioning how figures relating to 1999 are influenced by the Kosovar crises.

⁵⁹ *Combating transnational organised criminal organisations. Clandestine ethnic immigration*, July 2000, cited, page 4.

⁶⁰ Parliamentary Committee investigating the phenomenon of *mafia* and other similar criminal associations, *Report on trafficking in human beings*, cited, page 21.

3.4 POSSIBLE FORMS OF EXPLOITATION

The main illegal markets on which victims of trafficking end are the "black labour market", prostitution and begging. While the last two forms of exploitation feature a strong presence of minors, the black labour market is more elusive and difficult to penetrate. The Italian Criminal Police however report of "Chinese children being forced to live and work for long hours, in absolutely unhealthy conditions, in leather and textile sweat shops⁶¹".

3.4.1 Sexual Exploitation

The sex trade represents one of the most well-known forms of exploitation affecting a large number of women (including a percentage of minors) especially from Central and Eastern Europe, Africa, and Latin America. The difficulties involved in defining the phenomenon of trafficking does not help in understanding the phenomenon itself or in distinguishing trafficking from prostitution. It seems that the characteristic element of trafficking can be identified in the violent and/or psychological coercive actions carried out by one or more persons (also in a co-ordinated manner and in different national spaces) towards other people, generally women, aimed at forcing them to have sexual intercourse for money that the exploiters or pimps keep. It is a continual process of degradation of the women involved in this activity. Trafficking, in this sense, can be identified with slavery. The women can be bought and sold to different criminal networks like chattels. The conditions described can occur at different times and in different places: either upon departure (and end on entry into another country) or on entry into another country (and be temporary or long-term), or during stay in the country of destination. For these reasons, trafficking can be identified as a micro migratory flux camouflaged by broader migratory fluxes. Two kinds of situations can be identified: maximum coercion versus minimum autonomy and maximum autonomy versus minimum coercion.

The first type of situation concerns trafficking, whereas the second one concerns prostitution. Between the two polarities, some "grey" areas can be identified on the basis of the different interrelation of coercion and autonomy in the prostitute-client relationship. Consequently, the number of victims of trafficking in Italy should be estimated to be between 1 500 and 2 000 individuals at the national level, according to Censis estimates (see paragraph below). The main countries of origin of these prostitutes are Moldavia, Albania and Nigeria, and to a lesser extent, (Romania and Ukraine). This market extends especially across north and central Italy where ethnic *mafia* groups – especially Albanian and Nigerian criminal organisations – have been able to establish a base in regions that, unlike other parts of the country, were largely untouched by other criminal organisations. The income generated through the sex trade has allowed these initially marginal criminal organisations to accumulate such vast amounts of wealth that they now compete in other areas of criminal activity, gradually consolidating their roots within Italy.

a) The Censis estimates

The most recent statistics on the subject suggest that there are currently between **20 000 and 30 000** foreign prostitutes in Italy⁶². Nearly all the operators interviewed complained of difficulties in reliably determining the age of the girls they assist: while it is possible that some of the girls look

⁶¹ Tiziana Terribile, Chief Commissioner of Police, Criminal Police, Department of Public Security, Ministry of Interior.

⁶² Yearly Caritas Statistical Report, 2000.

older than their real age because of their highly provocative behaviour or clothing, it is equally possible that others declare themselves minors so as to benefit from various forms of legal protection. Most (exactly 45.2%) operators, however, feel that minors account for between 16 and 30% of the prostitutes that they assist. The percentages for child prostitutes are based on the Final CENSIS Report on "Trafficking and sexual exploitation: an investigation through operators in Italy"⁶³. Although opinions about trends vary (some say the phenomenon is stable while others feel it is increasing and still others believe that there has been a slight decline), all the operators agree that clients prefer minors because they are perceived as healthier and less likely to pass on infections. 70% of the operators interviewed reported that most of these girls are Albanian, followed by Nigerians and Moldavians. Although the official figures released by the Italian Ministry of Interior include only 202 victims of child prostitution in 1999, the phenomenon is widely regarded as vastly underestimated.

The Tampep Project carried out in the Province of Torino has observed that a greater number of younger persons are involved in prostitution (between 18-20 years on average for all groups) and that new nationalities have appeared in that area. For example, there is now an increased presence of Romanian and Bulgarian nationals, yet Nigerian women still make up the largest group of individuals involved in the sex trade in the province of Torino. Between August 2000 and January 2001, 637 individuals were contacted by the Tampep Project in order to offer them assistance and information. 20% of those were minors, mainly from Nigeria (aged 16-17), Romania and Bulgaria (aged 15-17). Another important trend is the increase in the number of boys from Romania and Morocco who are being exploited in the sex trade.

Case 1

In April 2001, E., a 16 year-old girl from Albania, came into contact with the TAMPEP office in Turin via a social worker. E had been in Italy for a year and a half. At the age of 7 her mother died in Albania, and soon after her father remarried. After giving birth to a second child, her stepmother decided to leave to Italy, thus leaving the care of the children to E. Soon after, her father decided to join his wife in Italy, thus leaving E alone with the other two children. According to E, her father is an alcoholic and a violent man. After a while, E's father asked a friend – Mr. F – to take his daughter to Italy. E and Mr. F travelled by boat illegally to that country. On the way and after the arrival in Italy, Mr. F and another man tried to rape E. Once in Brescia, Mr. F forced E to work in prostitution, while inflicting physical and psychological violence onto her. Feeling desperate after a year of ordeal, E left to Asti and found a young man willing to help her. She is currently being taken care of by an Italian host family and is participating in the re-insertion programme which includes continuing education.

The girls, mainly from rural – and therefore the poorest and most culturally backward – areas of their home countries, are often held prisoner, deprived of their papers and subjected to all sorts of physical, psychological and sexual violence as well as blackmail and threats: the aim is to deprive them of their freedom and their ability to think, act and move freely⁶⁴. The girls are closely

⁶³ Published by CENSIS Foundation, Rome, in the framework of the STOP programme.

⁶⁴ Ministry of Interior, Department of Public Security, *Migrations and security in Italy*, cited, page 1153.

monitored by the traffickers and any breaches of the established rules are immediately punished, mainly by violence against the girls or their family members, sometimes even to the extent of murder. Such brutality is partly explained by the profit that each girl can generate for her traffickers. Interpol estimates suggest that a prostitute generates a mean income of 120 thousand dollars a year for her exploiters⁶⁵. The financial turnover of prostitution in Italy is estimated to be at 180 billion Italian Liras per month, spread over an estimated 9 million clients. The manner in which the girl is to prostitute herself, the number of times, places, tariffs and distribution of the income are rigidly fixed by the traffickers.

In order to minimise the risk of girls establishing special relationships with clients or investigators who could then go to the authorities, the traffickers often "exchange" or re-sell the girls to other crime syndicates. It is very difficult to take these minors into care, because they are often closely monitored by their traffickers who have taken "almost total" control of their thought processes and their personal freedom.

Case 2

M.S. was sixteen when she left Romania in November 1999. She planned to go to Italy with a friend of hers and a young Romanian man who promised to find them waitress jobs in Italy. She was then sold to different men until she reached Montenegro through Moldavia and Serbia. Several weeks later, M.S. was sold to an Albanian man named Ardi. Ardi did not have the typical distinguishing features of a criminal. He did not beat or terrorise M.S. He soothed her making promises that he would help her find a real job in Italy. He used his charm and his good manners, and deceived her by pretending to be in love with her. Once in Italy, Ardi told M.S. that he was unable to find any work for her, and that she would have to work as a street prostitute. To convince her, he promised to marry her as soon as they had enough money. They left for the Netherlands through Austria and Germany. M. S. worked there as a window prostitute for 9 days. Ardi took all her income (15 million liras). Then, Ardi tried to get rid of M.S. on several occasions probably because he realised that her age could cause him major problems with the police. Back in Italy, M.S. was noticed by the police and was asked to denounce her exploiters. M.S. made the denouncement mostly out of jealousy when she found out that Ardi was married to an Italian woman and that he also exploited four other young women as prostitutes and had already been imprisoned twice for his activities.

b) The Parsec estimates

Starting from the principle that any estimate can be questionable, what makes these estimates reliable is the transparency of the process for the extrapolation of results. In fact, once the process is visible, it can be subjected to critical observations. Social workers (and among these those who work in the streets) represent, at least in the present historical phase, the most reliable source of information concerning both quantitative and qualitative aspects of estimates. The work carried out in the streets by social workers allows them to gain experience that enables them to "count" the girls working as prostitutes in the streets to evaluate the phenomenon. This method is particularly useful in the case of prostitution, a secret world on which it is not possible to produce surveys on a large territorial scale, aimed at defining quantitatively extensive reference platforms. Therefore, the

⁶⁵ A. Barandini, Trafficking in human beings in the UN perspective, cited, page .3.

approach proposed here can be considered as an interaction of different indirect methodological criteria and reasoned evaluations subject to revision, particularly in the process of estimation.

In the overall operation, the researchers of this report not consider estimates proposed by other organisations referring to the irregular component of the immigrant population in Italy. In fact the estimates proposed (i.e., Caritas refers to 300 000 migrants in an irregular administrative situation, whereas Cgil estimate the figure at 160 000 and other experts at 130 000, etc.) are too discordant with a too wide scope of variation, which could not contribute positively to the objective of the report.

The overall estimates, on the basis of the above criteria, can be broken down in the following table at the national level:

| <i>Geographical Area</i> | <i>1996</i> | | <i>1998</i> | |
|--------------------------|---------------|---------------|---------------|---------------|
| | Min. | Max | Min. | Max |
| North | 8 100 | 11 300 | 7 700 | 10 130 |
| Centre | 5 600 | 7 000 | 5 587 | 6 989 |
| South/Islands | 5 100 | 6 800 | 1 470 | 2 170 |
| Total | 18 800 | 25 100 | 14 757 | 19 289 |

With reference to the geographical areas, with both years taken into account, the majority of girls are concentrated in the Northern areas, followed by the Central areas. The difference is understandable ultimately because of the traditional social control, which is still significantly more invasive in the Southern areas than in the Northern/Central areas.

This implies a stronger tendency to marriage and therefore to the constitution of family units at a younger average age in comparison with the other geographical areas where, among other factors, there is a more widespread tendency to stay within the original family context until an age close to thirty years and more, with consequent limitations on behaviour. The major consequence of these behaviours would be, at least at this historical phase, a reduction in the demand for sexual services for payment, whereas an increase was registered in the other case. This does not mean that the presence of more families leads to a less need for sexual services for payment. It rather implies that some modernisation processes, although necessary, can produce forms of individualism and exacerbated non-communication between the female and the male population components. This social dislocation can determine significant distortions in female-male relations – and not only with regard to the single component but also the married one, – with a consequent mutual affective-existential removal.

Moreover, the Northern regions are, with respect to the overall immigration phenomenon, more attractive, due to the presence of more opportunities for employment, particularly in Turin and Milan. Consequently, these two towns seem to have the highest number of foreign prostitutes in Italy.

In the Southern areas, prostitution seems to be concentrated in the Campania region and particularly in the area of Naples. A first explanation resides in the fact that in the Naples area, foreign immigration is historically characterised by the presence of highly socio-economic precarious components, mainly allocated for domestic and seasonal jobs. Another aggravating factor is the inadequacy of the local social-labour policies in support of foreigners' integration carried out by local authorities. Moreover, the presence of resident American military forces represents a demand component for sexual services for payment met by the supply by English-speaking prostitutes

(mainly Nigerian, Ghanaian and Filipino). The fragmentation of the traditional organised criminal networks and their consequent control over the territory form the third significant pull factor for foreign prostitutes. The dissemination of micro criminality can be considered as a factor contributing to the spread of prostitution, whereas the presence of strong centralised criminal networks tend to counteract it. This happens not for moral reasons but rather because the latter would attract a massive presence of law enforcement staff in the areas concerned, thus discouraging the flourishing of prostitution.

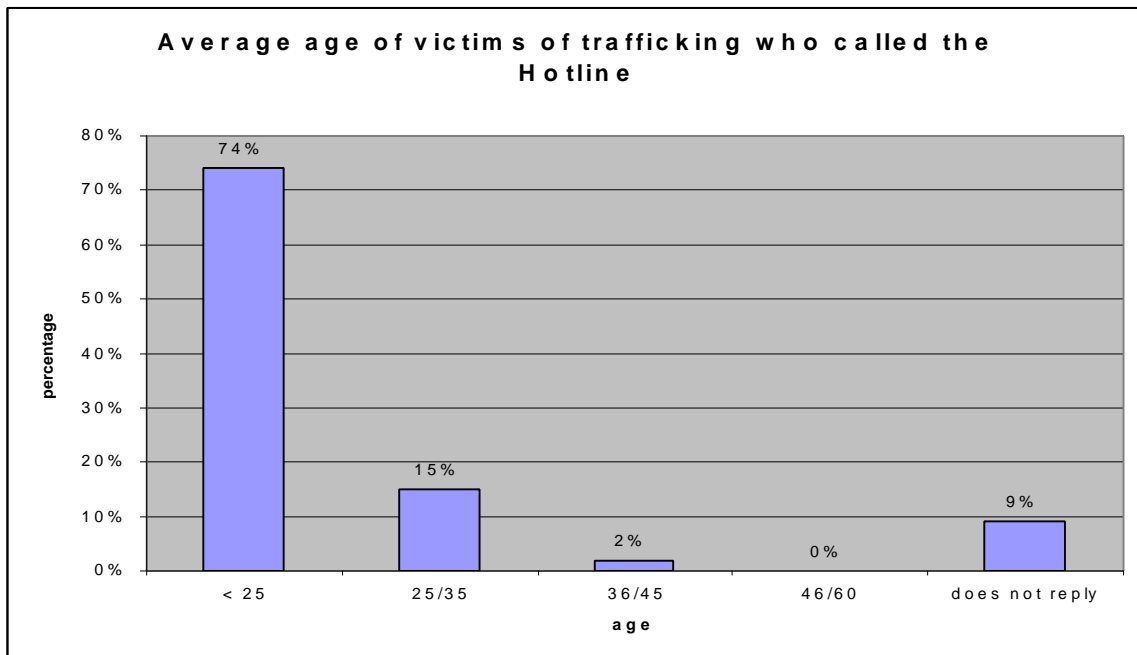
As far as Sicily is concerned, the differences with the other regions can be identified in the girls' countries or regions of origin and in the average age. With respect to Palermo, for instance, almost all the prostitutes are Nigerians, with some isolated cases of Eastern European girls, with an average age of between 20 and 25 years

c) The figures of the National Hotline and projects of social protection

In the autumn of 1998, the Inter-ministerial Commission for the implementation of art. 18 of the Italian Aliens Law (see par. 4) launched a programme specifically targeting victims of trafficking with special attention to those sexually exploited. Such action includes the setting up of micro-credit projects as well as a toll free anti-trafficking hotline (800-290-290). Both projects allow, on the one hand, to improve the capacities of local networks and to promote social services of a different nature, thus stimulating solutions to the vast range of problems involved in the process of the protection of victims. On the other hand, it addresses at local level the needs of trafficked women aiming at withdrawing from the forced subordination mechanism.

Throughout Italy, victims of sexual exploitation can telephone and obtain not only information in their own language, but also concrete and immediate help for breaking away from the circuit of exploitation, through associations and NGOs operating in the caller's area. Side by side with the toll free hotline, a nation-wide media campaign was launched using television spots, radio (with spots in the various languages of the main countries of origin of the girls), posters and information brochures. The slogan of the campaign is "If you are a foreigner and are forced into prostitution, call: there is a way out". Calls to the hotline have allowed a more detailed understanding of trafficking in Italy, even with regard to the other aspect, i.e., that of the clients of prostitutes. At present, however, the figures do not yet allow for reliable estimates, since the programme was only launched in July 2000 and more time will certainly be required to get a more detailed overview, even if the data collected so far indicate that the toll free hotline is destined to become a rich source of information about the phenomenon in the future.

During the 18 July 2000 – 22 March 2001 period, 187, 705 calls were received out of which 39 916 (21.3%) were managed. Among the callers, there are victims of trafficking (10.8%), clients (11.20%), relatives (12.9%), citizens (46.3%) and police officers (9.6%).



A consistent number of women – 2 872 – accepted to follow a guided rehabilitation process.

As illustrated in the following table, minors have also been involved in the projects of social protection, representing almost 3% of the total.

| Nationality | Women | | Males | Total |
|---------------------|--------------|-----------|-----------|--------------|
| | Adults | Minors | | |
| Albania | 559 | 34 | | 593 |
| Bulgaria | 82 | | | 82 |
| Colombia | 52 | | 22 | 74 |
| Morocco | 77 | | | 77 |
| Moldavia | 134 | 17 | | 151 |
| Nigeria | 1 430 | 13 | | 1 443 |
| Romania | 127 | 15 | | 142 |
| Russia | 54 | | | 54 |
| Ukraine | 141 | | | 141 |
| Italy | 41 | 2 | | 43 |
| Other nationalities | 173 | | | 173 |
| Total | 2 768 | 87 | 22 | 2 872 |

Not all women who are under the responsibility of the social protection projects request to benefit from the opportunities provided by art. 18 of the Italian Aliens Law (see para. 4). On one hand they fear their exploiters' revenge. On the other, there are some women who need time to mature and make the decision to withdraw from the exploitative circle.

It is worth underlining the fact that the entire general assistance structure is based on the substantial integration between protection projects and the activity of the National Hotline. The relevant role attributed to local entities and actors aims at supporting and adding value to local capacities to

counteract the phenomenon and to promote the girls' welfare, on the one hand, and at promoting synergetic actions with already existing services, on the other. There is more than one difficult aspect in controlling all procedures of interventions, in defining common strategies of psycho-social assistance, in supporting local capacities to facilitate forms of labour insertion, etc. But what are becoming generally acquired – and seem particularly significant - are the general guidelines of social intentions and objectives of the “therapeutic” contacts.

The integrated social intervention benefits from a centralised co-ordination in order to avoid duplications and wasting resources as well as facilitate the monitoring of the initiatives that are carried out. The following steps, forming the chain of the integrated social intervention, are implemented jointly:

- Micro action research. Knowledge of the phenomenon and of its local characteristics becomes an instrument of operational intervention providing social workers with the full picture of the whole action;
- Mobile street units: The work in the streets can help reduce the damage (psychological and physical, particularly for HIV prevention and treatment). Contact can become a socio-therapeutic relationship that could stimulate the decision of withdrawing from the exploitative circle;
- Protected shelters: they concretely respond to the requests for the protection of those who run away. Protected shelters and safe houses where the process of the re-composition of the women's broken identities starts and develops are provided;
- Houses with autonomy: protection is less invasive and provides the opportunity to experience forms of stronger autonomy and independent life;
- Ordinary support programmes: The women can address their labour and social insertion problems in Italy through training courses, education, and incentives to entrepreneurs;
- Decentralised co-operation programmes: they form the prevention side of the projects and the women's platform for possible voluntary return and re-integration processes in the countries of origin.

All the described phases of the social integrated intervention should be supported by:

- information campaigns targeting the young women as well as their clients;
- vocational training initiatives for public administrators and social workers as well as law enforcement officials. Mixed sessions facilitate inter-relations among the different actors of the integrated intervention.

The Italian Aliens Law, which for the first time specifically addresses the issue of the protection of victims of trafficking in Italy through art.18, marks a milestone along the path towards understanding the phenomenon and pinpointing ways to adequately deal with it. It opens up a new field of social intervention with a multidisciplinary and flexible approach. In order to effectively tackle trafficking, it is important to take into consideration not only the migratory and criminal aspects of this phenomenon, but its inter-relation with prostitution, as well. Any action, prevention-oriented, social or repressive, should keep the focus on the women, and the violation of their rights and dignity. In this respect, the challenge is to change the Italians' perception of the victim of trafficking and to start considering her as one of their own. Not as an immigrant, not as a prostitute not even as a victim but as a woman with her own right to auto-determination, to decide for herself and have control over her own life, like all other women. This statement has to be made even more forcefully in the case of minors who need the help of adults to be able to withdraw from the traffickers' clutches.

Differezza Donna, one of the organisations in charge of assisting victims of trafficking in Rome stated that in a period of one year, 25-30 individuals helped by their services were minors, aged 16 to 17 years old. The majority come from Albania, Romania and Moldova, and are offered – among other services – medical, legal and reinsertion assistance.

In the overall context of assistance to victims of trafficking, the International Organisation for Migration has now implemented return and reintegration programmes for those who wants to return to their countries of origin on a voluntary basis. Below are listed the figures of the return and reintegration programmes run by IOM, Rome. From the year 2000, when voluntary return for victims of trafficking was initiated, to April 2001, a total of 65 individuals returned to their countries of origin – 10 were minors, mainly from Albania, Nigeria and Romania.

| Year | Country of origin | Absolute figures | Percentage |
|-------------|--------------------------|-------------------------|-------------------|
| 2000 | Albania | 7 | 16% |
| | Romania | 12 | 27% |
| | Moldavia | 10 | 23% |
| | Ukraine | 6 | 14% |
| | FRY | 1 | 2% |
| | Bulgaria | 1 | 2% |
| | Nigeria | 7 | 16% |
| | Total | 44 | 100% |

| Year | Country of origin | Absolute figures | Percentage |
|-------------|--------------------------|-------------------------|-------------------|
| 2001 | Albania | 4 | 25% |
| | Romania | 3 | 19% |
| | Moldavia | 5 | 31% |
| | FRY | 1 | 6% |
| | Lithuania | 2 | 13% |
| | BiH | 1 | 6% |
| | Total | 16 | 100% |

Within the framework of a different project called “measures to prevent and combat trafficking in women and minors for sexual exploitation” (July 1999, June 2000), IOM, Rome assisted twenty one young women from Albania and Eastern Europe, of whom 5 were minors when they entered Italy, making up 24% of the group. This project, including interviews of the victims by psychologists, aimed at providing appropriate orientation and assessment of the victim’s willingness to return, and at identifying with the returnee the most suitable reintegration process in the home country.

Case 3

In the summer of 1999, during a trip to visit her sister who lives in Greece, M.H., a 16 year-old Romanian girl, was sold to a gang of Albanian nationals by a relative of hers who was accompanying her. With the threat of a weapon, these people forced her to follow them to Italy and work as a prostitute. She succeeded in running away within the very first few nights of “work” and took a lift to the nearest police station. From the beginning, M.H. expressed her strong wish to return to her family. M.H.’s stay should have been short. On the contrary, due to the fact that she was called as a witness in the trial of her trafficker, her stay was prolonged. At the moment M.H. has a regular stay permit issued because of her age.

M.H. expressed some difficulties in telling her story to her family: she was happy to hear that an IOM officer would contact her mother with all necessary care but she does not want her mother to know that the objective of her kidnapping was for her to work as a prostitute and that she actually worked as one, although for only a few nights.

Case 4

M.R., a 15 year-old Albanian girl left Albania together with her sister of her own free will, and aware of what she would be doing in Italy. The reason that made M.R. take this decision was the extreme poverty in which she had been living in with her family, and also the conditions of her marriage, where she had been subjected to violence and suffering since the age of 14.

The journey from Albania to Italy was similar to all others of its kind. She arrived in Mondovi, in the Italian region of Piemonte, where she worked on the streets for approximately two months. Then, accompanied by her trafficker, she moved to Milano because the police were pursuing the man. Two weeks later, she was arrested with her sister. M.R. did not denounce her trafficker, and refused to participate in the trial as a witness. As of that moment, the sisters wanted to return to Albania as soon as possible. Their decision was further accentuated by M.R.’s health, which was worsening. M.R. was shattered by the diagnosis of her medical problems and wishes to be close to her relatives during this difficult period.

3.4.2 Begging

Besides a very large number of extremely poor Roma children, begging is also the forced profession of other minors, especially Slavs, Romanians and Albanians. Investigations carried out by organisations involved in combating the phenomenon have revealed that these children – mostly boys – are forced to live in abandoned farmhouses located in remote suburbs, under inhumanly unhealthy conditions. They are mainly exploited by adult fellow nationals who force them to work for more than ten hours a day at railway stations in large cities or at heavily frequented crossroads. Their daily job is to earn a pre-established amount either by begging or for simple tasks (such as wiping car windscreens) or through petty theft. Any attempt at escape or rebellion, and any failure to deliver the daily quota are punished by beatings. This climate of intimidation allows exploiters to hold their victims in a state of submission that hinders their rebellion or flight.

Case 5

E is a fourteen year-old Albanian boy. He went to Italy with the promise of a good job but, once there, he realised that he had been deceived. A fellow –countryman, who was twenty years old, told him and other young boys that the only way to survive was to beg for him at street corners. They accepted, also because they thought that at least a little part of the money they earned would be sent to their families in their country of origin. That was not true. Their exploiter made them live in extremely poor conditions: they had to sleep in a cold place with barely a cover, and to eat only tinned foods. The psychological climate was also terrifying since the exploiter used to beat them for no reason and to threaten them repeatedly. He told them he would punish them if they asked for help, or not earn the established daily sum, or also if they kept some money for themselves or tried to escape. One day, the exploiter shot one of the boys. E found the strength to react to this situation and to report the exploiter to the police, but he was so terrorised that, when he saw the man again from behind the mirror-glass during the identification procedure at the police station, he had a panic attack.

Law enforcement agencies report that "while investigations against Albanian criminal rings are often successful, investigations against Moroccan exploiters are always very difficult because while Albanian children, generally forced into begging, can sometimes be convinced to talk about their real living conditions and identify their exploiters in photographs, Moroccan children, mostly involved in drug dealing, are rarely collaborative, constantly affirming that they are independent, managing their deals without the involvement of adults⁶⁶".

Recent investigations also suggest that besides being subjected to sale and exchange between exploiters⁶⁷, these minors are often sexually abused and over time, become involved in other illegal activities, passing on to more developed forms of delinquency⁶⁸.

3.4.3 Involvement in unlawful activities

The involvement of minors in unlawful activities for commercial purposes is a complex subject that has not yet been fully studied or analysed. The information available is mainly gleaned from interviews with operators⁶⁹ involved in the Juvenile Justice system who come into close contact with minors charged with crimes as well as from the related police investigations or trial records. Moroccan children are mainly involved in drug dealing. They are recruited by their adult fellow nationals 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 can easily escape. Minors generally accept to become involved in these activities both because of the pressure of family expectations and because of their vulnerable condition as new arrivals in Italy. Investigations have revealed that a family pays about 8 to 10 million Italian Lire (about 4 to 5 thousand dollars) to Moroccan traffickers especially in the area of Ouled Youssef (province of Beni Mellal), who put them on their own passports as

⁶⁶ Tiziana Terribile, Report cited.

⁶⁷ Report on the hearing on 16 March 2000 of the Working Group on transnational organised crime from Nicola Maria Pace and others, cited, page 20.

⁶⁸ Ministry of Interior, *Report on trafficking in human beings*, cited, page 68.

⁶⁹ Many thanks to Mirela Lako and Noureddine Cherkaoui, cultural mediators at the Minors' prison in Milan "Beccaria", for the information regarding the mechanisms of the involvement of minors in unlawful activities.

their legitimate children. Even if the family requests the traffickers to place their children in the hands of a cousin or uncle (also often involved in unlawful activities) in Italy, it is common for traffickers to abandon the children in large cities without further thought about their welfare. Some families do not hesitate to encourage their children to deal drugs, perhaps under the watchful eye of a relative (cousin or uncle) already involved "in the game". Certain minors tell of how their parents even suggested the type of drugs they should deal ("white powder" = cocaine or "brown sugar" = heroin).

Upon reaching Italy, these minors, who do not speak Italian, are totally disoriented and happily approach the first fellow nationals they come across. After having gained their trust, these adult fellow nationals then obtain their collaboration, promising them easy money, the main reason for which most of the children came to Italy in the first place.

The abundance of foreign child labour as well as the increased organisation in the distribution of light drugs (hashish), has however led to market saturation in recent years, forcing minors into other forms of petty crime and delinquency. NGO workers report that children who once found easy money in drug dealing are now kept outside the game and therefore turn towards other forms of illegal profit such as muggings, car theft, theft of cell phones, pick-pocketing, sometimes including threats and violence, or occasional sex for payment.

Albanian children seem to be mainly employed as carriers of large quantities of drugs. Current information suggests that the "exploiters" (between 20 and 30 years old), are not significantly older than their minor "victims" who perceive the exploiters as role models since they have managed to concretise the dream of getting rich quickly.

The minor and his exploiter enter into a relationship based on the admiration and esteem of the former and the economic gain generated for the latter by using the minor for his unlawful activities (minors do in fact enjoy specific protection even in criminal proceedings, in Italy). Younger children (between 14 and 15) admire their older fellow nationals who have managed to earn the money to be able to look "like Italians" (buying designer clothes, cell phones and frequenting discos, etc.). Furthermore, they perceive their delinquency quite like their leaving home, i.e., as an adventure, a challenge and an opportunity to show their parents how much they are really worth. It must be borne in mind that in Albania, where fathers rule with an iron fist, children are not held in high regard within their families. To leave and be entrusted with the huge responsibility of providing for the welfare and sustenance of the entire family often gratifies these youngsters who feel justified in pursuing delinquency as a profession. These "victimised" youngsters in turn soon become "exploiters" since they fail to appreciate the criminal nature of their actions: they only see the quick and easy money, without venturing to consider the long-term picture.

Case 6

This is the case of an Albanian young man who entered the first reception centre of the Juvenile Justice system because of trafficking in drugs. He was stopped at the Central Station of Milan while carrying 5 kg of heroine in a bag. The young man was living and working in Tuscany; he had a regular residence permit and he had never had judicial problems. One day some fellow countrymen in a bar approached him. He did not know those men very well, but he felt pleased by the offer they made him. They proposed to him to go with them to France and then to return by train carrying a package of drugs. The payment for his "easy service" would have been 1.5 million ITL. It was Christmas time and the young man was excited at the possibility of earning some money to send to Albania before the end of the year, so he decided to accept the proposal. They went to France and spent two enjoyable days during which he was provided with fashionable clothes and with amusements of all kinds. Then he got on the train and returned to Italy. At the Central Station of Milan, he was intercepted by the police and taken to the Juvenile Justice.

Lastly, a word about Roma children literally sold and forced to become thieves: these cases fall fully within the definition of enslavement since the children are literally sold – for payment or otherwise – to a third party who lives off their work (mainly theft).

3.4.4 Other forms of exploitation

Investigations by the Carabinieri in the Italian region of Basilicata brought to light the sale of children for illegal international adoptions. In 1998-99, eight children (seven Albanians and one Bielorussian) were rescued from this type of victimisation⁷⁰. Although no concrete evidence has as yet come to light, trafficking in human organs is still suspected. Reliable sources suggest that organs may sometimes be used as payment for passage. Others have indicated that human organs are surgically removed from mentally defective immigrants⁷¹. Although there is a strong suspicion that children are used for snuff movies in Italy, no concrete evidence of this has been uncovered so far⁷².

3.5 INSTRUMENTS FOR THE PROTECTION AND REHABILITATION OF VICTIMS OF TRAFFICKING

3.5.1 Article 18 of the Aliens Law

Italy's particularly innovative approach to victims of trafficking is contained in article 18 of the Aliens Law⁷³. This article provides for the issuance of a special six-month residence permit that may be extended for a year or more, as required. The special permit allows the holder access to social and assistance services, education, as well as enrolment with the national employment agency, while also serving as an employment permit. It can also be converted into a permit for study or work.

⁷⁰ Comando Regione Carabinieri Basilicata, cited, page 2.

⁷¹ Report of the hearing on 16 March 2000 of the Working Group on transnational organised crime from Mr Nicola Maria Pace and others, cited, page 20.

⁷² Ministry of Interior, *Report on trafficking in human beings*, page 57.

⁷³ See also articles 25-27 *Regolamento di Attuazione* of the Aliens Law.

This protective instrument provided for under the article incorporates three basic innovations:

- While special protective measures for victims of trafficking are used as a sort of reward (for collaboration with law enforcement agencies) in most European legal systems, article 18 extends protection to all victims regardless of whether or not they decide to collaborate. Under the article, the protective instrument may be ordered either as a result of a judicial decision ("when in the course of police operations, investigations or other proceedings regarding one of the offences...") or at the behest of the social services generally involved in dealing with victims of trafficking ("...or in the course of assistance provided by social services, local bodies..."). The reason for this lies not only in the Italian conviction that victims must be protected "regardless" of all other considerations, but also in the fact that victims will more effectively co-operate with the authorities after they are placed in a position of security. A victim can only efficiently collaborate with law enforcement agencies after he or she has been able to discuss the trauma of trafficking and established a relationship of trust with the authorities. The article perfectly balances the victim's need for protection with his or her ability to actively assist law enforcement agencies in bringing the exploiters to justice.
- Furthermore, the instrument is designed to ensure the full rehabilitation of the victim, since it is renewable and does not terminate immediately after the trial.
- Lastly, a long line of case law has clearly established that the provision is not applicable only to victims of trafficking for the purposes of sexual exploitation, but also to victims of other types of exploitation (provided that the exploitation is serious and protracted), as well as to aliens who have served a custodial sentence, no longer subject to appeal, for offences committed as minors. This means that under Italian law, certain types of juvenile delinquency by aliens are viewed as a form of trafficking and exploitation.

In keeping with its spirit and the so-called "two track" system of implementation (by the judicial authorities and social services), article 18 also provides for the allocation of public monies for the co-funding of projects managed by NGOs specifically involved in this field of social service. Towards this end, the Committee for the Implementation of Article 18 (see the paragraph below) each year evaluates and co-finances projects of this nature. NGOs and associations of volunteers desiring to present projects in implementation of article 18 must register with a special registry maintained by the Department of Social Affairs of the Prime Minister's Office. In 1999, 49 such projects were co-funded throughout Italy. To date, 800 residence permits have been issued on the grounds of social protection⁷⁴ pursuant to article 18. Together with the "targeted action" described above, article 18 also provides for "nationwide actions" that – because they concern the national interest – may be promoted only by government bodies.

3.5.2 Other initiatives at the central and local levels

a) At the central level

The Government has promoted a series of initiatives aimed at fully and effectively applying the laws against the sexual exploitation of minors. The central initiatives promoted by the Prime Minister's Office include the setting up of Commissions focusing specifically on trafficking in minors. The most important of these commissions are:

⁷⁴ The figures do not differentiate between minors and adults.

The National Commission for the co-ordination of action against the mistreatment, abuse and sexual exploitation of minors, set up under Italian Prime Ministerial Decree dated 27 March 1997, with the task of planning action strategies, compiling, together with the Observatory, a map of the resources available in the field, promoting training courses for the operators involved and signing memoranda of understanding. The action plan, drawn up in September 1998, identifies five priorities: the collection of data and scientific research of the phenomenon; specialist training for operators, setting up networks and the signing of memoranda of understanding between the various institutions, the conclusion of transnational agreements aimed at standardising local laws and sharing information, the signing of agreements with the media so as to sensitise public opinion to a culture of childhood in keeping with principles laid down in the New York Convention.

The National Observatory (Document Archives and Analysis Centre) on Childhood and Adolescence set up under Italian Law no, 451 dated 23 December 1997 within the Department of Social Affairs. The Observatory engages in research and training activities in concert with the Commission and has distributed a monograph on the abuse and sexual exploitation of minors, to all sector operators.

The Committee for the Co-ordination of Government Action against Trafficking in women and children for the purposes of sexual exploitation, set up by a decree promulgated in February 1998, within the Department for Equal Opportunities. The Committee is in charge of monitoring and analysing the phenomenon, indicating criteria for valid data collection, revising applicable laws, rules and regulations and ensuring that they are in line with the requirements imposed by the development of trafficking, promoting the issue of guidelines for all operators as well as other initiatives to be implemented at the European level.

The Committee for the Co-ordination of Action by all Public Authorities aimed at Prevention, Assistance and Protection of Minors from Exploitation and Sexual Abuse (set up by ministerial decree dated 20 January 1999 within the Department for Equal Opportunities).

The Inter-Ministerial Commission for the Implementation of Article 18 of the Law on Immigration entrusted with the task of controlling, programming and planning the resources required for the implementation of assistance and social rehabilitation programmes (see preceding paragraph).

Approval of the national plan for childhood provided for under Italian law no. 451/97⁷⁵.

b) At the local level

In May 1996, the Italian Ministry of Interior started implementing the "Rainbow Project", placed under the Department for Public Security. As part of the project, special offices dealing with cases regarding minors and their families and monitoring crimes against minors, have been set up within all Central Police Stations (following the enactment of Italian Law no. 369/98, these stations were equipped with specialised sections of judicial police that also liaise with law enforcement agencies in other countries, through INTERPOL and EUROPOL). Furthermore, "emergency" hotlines managed by staff especially trained to deal with emergencies requiring urgent measures for the protection of minors, have been set up. Other action includes the training of sector operators through specialist courses and the setting up of a special organisational unit within the Central

⁷⁵ 23 December 1997 law, n. 451: "Institution of the Parliamentary Committee and the National Observatory on childhood".

Headquarters of the Criminal Police to monitor the phenomenon and deal with it in line with the policies of other countries. Specific initiatives have also been launched so as to combat pornography on the Internet.

4. UNRESOLVED ISSUES AND FUTURE PROSPECTS FOR THE PROTECTION OF UNACCOMPANIED MINORS

4.1 A CRITICAL OVERVIEW OF THE SYSTEM OF PROTECTION

The Italian Aliens Law, which for the first time specifically addresses the issue of foreign unaccompanied minors in Italy, marks a milestone along the path towards understanding the phenomenon and pinpointing ways to adequately deal with it. Despite this, the guidelines contained in this law have led to a rather problematic paradox. Italian Law no. 286/98, in fact, pursues two different goals at the same time: promoting the insertion of legal migrants while combating illegal immigration. The underlying problem in the case of minors is that they do not fall fully into either of the two groups: their immunity from deportation in fact renders them "anomalous" illegal immigrants.

While, on the one hand, in keeping with the principles laid down in the Convention on the Rights of the Child, the Italian legal system extends a wide range of rights and protection to foreign minors, on the other, the protective instruments provided for under Italian law are necessarily temporary, valid up to the attainment of majority, at which time, these unaccompanied minors - who before their 18th birthday are considered fully on a par with Italian minors - are transformed not only into "foreigners", but also illegal immigrants. It is as though the entire gamut of the schooling, training and integration they have undergone during their stay as minors in Italy, suddenly becomes irrelevant⁷⁶.

Since the features and trends of the phenomenon closely reflect those typical of adult migratory fluxes, decisive action is needed in dealing with and caring for these minors. The need both to discourage the entry into Italy of "quasi-adults" in breach of government immigration quotas, and to send a clear signal to those still in their home countries that such behaviour will not be tolerated, has led to a marked preference for resorting to assisted repatriation in these cases. In keeping with this trend and to dispel all doubts on the issue, the recent Italian Ministry of Interior circular mentioned above, clearly states that residence permits issued "because of minor age" do not entail the right to enrol at the unemployment office (and therefore access to the labour market) or the extension or conversion of the residence permit into a work permit upon reaching majority.

By breaking the continuity of the action taken in favour of these minors, the provision in fact puts the brakes on integration, placing minors who after entering the country illegally, have, sometimes for years, followed the path towards integration (through schooling, access to scholarships, integration into the work force, etc.). In this way, the most "integrated" minors often find themselves at a dead-end in the path they have followed, while, paradoxically, the door to full integration is left open to juvenile delinquents⁷⁷, even after attaining majority. While the discouragement of illegal immigration by restricting the extent of reception available is certainly a legitimate goal, care must also be taken to ensure that the system does not in fact encourage juvenile

⁷⁶ This is not applicable to the so-called "weak" (victims or authors of crimes committed when minor) subjects, for whom caring measures and reintegration are far more consistent.

⁷⁷ It is worth mentioning the possibility of a residence permit for judicial reasons for those minors who have already served their custodial sentences for crimes committed when minors.

delinquency. While the Committee's commitment to preventive action may be laudable, a great deal of in-depth reflection is required to ensure that the system does not in fact entail an empty promise for the minors already in Italy, while further encouraging the influx of prospective migrants in the home countries.

The need for preventive action becomes even more imperative in the light of the fact that criminal organisations take advantage of these massive migratory fluxes in order to profit from the exploitation of minors. While the existence of a fully-fledged "trafficking in minors" has long been established, recent investigations have unearthed forms of exploitation that commence after the minor has arrived in Italy by his/her own means. Finding their dreams of work and easy money cruelly dashed by the bitter reality they face soon after arriving in Italy, they realise that at the very most that they may attend classes or training courses: a prospect that is a far cry from the high hopes they nurtured when they set out from their homes, leaving their families behind.

Faced with this situation, the weight of the responsibility they bear, as well as their grossly exaggerated sense of duty and dignity, often lead them to seek help from fellow nationals already involved in criminal activities, and who are only too happy to recruit them with promises of easy money at no risk since "in any case, nothing will happen to them". While a large proportion of these "child immigrants" soon end up in juvenile correction institutions, the others mostly find themselves enmeshed in a crippled rehabilitation system that, in fact, does not provide any light at all at the end of the tunnel. Unlike their counterparts who are victims of trafficking for the purpose of sexual exploitation, who, under Italian law, enjoy special forms of protection and real opportunities of integration and rehabilitation, these minors are almost totally devoid of legal relief against repatriation upon attaining majority.

In the light of the above, one may safely conclude that the current Italian system is still in its infancy, featuring grey areas and doubts that require clarification as well as extremely innovative approaches that may well serve as benchmarks for other EU Member States.

4.2 FUTURE PROSPECTS

In order to adequately address some of the unresolved issues that beset the protection of unaccompanied minors in Italy, the Government has set up a National Action Plan for the Protection of Childhood. The long-term aims of the plan include collection of data on the condition of minors, a mapping out of the resources available in the field, setting up a network linking the various institutions in charge of the well-being of minors, defining the quality standards applicable to services targeted at minors as well as the re-funding of the projects provided for under Italian Law no. 216/1991 for the support and rehabilitation of minors facing an immediate risk of falling into juvenile delinquency.

The plan also contains provisions specifically targeted at foreign unaccompanied minors. Most importantly, the plan further specifies the tasks entrusted with the Committee for Foreign Unaccompanied Minors that, in keeping with the guidelines contained in Italian Decree no. 535/99, must:

- Carry out a nation-wide census of all foreign unaccompanied minors in Italy;
- Standardise the quality of reception throughout the country;
- Work towards obtaining the collaboration of the minors' home countries.

The plan also clearly highlights the tendency to view assisted repatriation as the preferential instrument to be adopted in these cases, providing for more permanent reception and later settlement in Italy, only in exceptional cases. The plan, in fact, states that: "in adopting the required measures - *especially repatriation* - the Committee for foreign minors shall:

- a) as soon as possible, determine the identity of the minor and locate his/her relatives and family nucleus in his/her home country, even availing themselves, for this purpose, of the services of international organisations such as the International Red Cross, UNICEF and the UNHCR;
- b) ensure that the conditions essential to the safe and assisted repatriation of minors are met, even providing – in the case of adolescents – such vocational training as may be required in the best interests of their social rehabilitation *in their home country*.

The Plan also provides for the preventive action, to be implemented in the minors' home countries (Albania, Morocco, Romania, Bangladesh, etc.), as well as for "formal agreements with such countries *for the setting up of adequate repatriation procedures*".

A national agency will be set up under the plan to examine, on a case-by-case basis, whether the minor should be allowed access to integration in Italy or be repatriated. Towards this end, two forms of action will be taken: firstly, a network of reception centres will be set up in Italy, while other action will be taken in the minors' home countries to discourage illegal immigration and promote repatriation.

Action will also be taken with regard to the other categories of foreign unaccompanied minors, described in this report. In particular, minors seeking asylum will be afforded all the benefits recommended in the Resolution passed by the Council of Europe on 26 June 1997, that provides for placement in care at reception centres or with families as well as a series of interviews with trained professionals with a view to clearly identifying the minor's personal problems and evaluating the minor's application for asylum, in the light of the minor's best interests. Towards this end, provision is also made for reuniting the minor with his family.

In the interest of juvenile offenders, whose numbers, to cite the Government, "cannot be ignored, especially since [these minors] are often exploited by adult-run criminal organisations", the Justice Ministry has undertaken to:

- provide adequate training to sector operations (so as to meet the specific needs of juvenile offenders);
- improve the quality of life of juvenile offenders by promoting cultural programmes in juvenile correction facilities;
- ensure that juvenile offenders have real access to corrective measures other than detention, such as placement in care with families or structures prepared to deal with this type of minor;
- develop instruments aimed at social rehabilitation (school, work, families, educational institutions or reception centres) upon release from detention.
- Government action against the exploitation of foreign minors will include tougher police action aimed at cracking down on paedophilia, child prostitution and juvenile delinquency, as well as programmes targeted both at *the recovery and, where possible, assisted repatriation to the minor's country of origin* and at ensuring the social rehabilitation of victims.

In the light of the priority placed on assisted repatriation in the guidelines discussed above, urgent action is required, not only to secure the "operational feasibility" of repatriation, but, far more importantly, to also ensure that none of the minor's rights are violated and that it is in the best interests of the minor. The Committee for Foreign Minors, in collaboration with the International Social Services, came up with the most interesting proposal, based on pilot projects carried out over the past year, of promoting decentralised co-operation initiatives in the home countries of repatriated minors. Besides bilateral agreements, the proposal also includes the promotion of collaboration between Italian local institutions and their counterparts in the home countries of repatriated minors, aimed at setting up a network involving the business community, schools and non-profit making organisations, with a view to promoting vocational training initiatives targeted at repatriated minors.

Although funded by the Committee, these vocational training courses⁷⁸ would be held in the minors' home countries. The idea is to give minors who have already followed the path towards integration in Italy (schooling, work, etc.), the opportunity to continue progressing in their home countries, with a view to returning to Italy later – equipped with the benefit of vocational training as well as a valid visa falling within the immigration quotas fixed for each year. The main obstacle to this proposal is that so far, immigration policies have always been totally separated from policy regarding international co-operation.

With regard to the sexual exploitation of minors, besides specialist training courses, law enforcement agencies would like to see legislative reform affording investigators of these crimes the same investigative powers currently enjoyed by the Italian Drug Enforcement Administration, including the power to freeze all the assets of traffickers, so as to put them out of business. Assistance services need to be enhanced by the sharing of know-how acquired through projects carried out by various bodies, periodical round tables, exchange of information not only within Italy but also with the minors' countries of origin, and the setting up of a regulatory body for organisations dealing with the problem so as to ensure service quality standards.

The most innovative proposals include:

- allowing victims of trafficking to apply to be reunited in Italy with their families – especially their children – who could fall victim to retaliatory action and threats by exploiters;
- The stipulation of specific operating agreements – first and foremost with CONI and Federcalcio – so as to address the issue of the large number of foreign minors who come into contact with the organised sports system each year in the hope of obtaining a contract as a players with football clubs;
- The appointment of a guardian.

Lastly, the Government is committed to presenting the following bills for enactment:

- A bill ratifying and implementing the European Convention of Strasbourg on the Exercise of Children's Rights and therefore on the way in which minors are heard during legal and administrative proceedings, so as to ensure that they are heard and treated, not as merely passive objects in the proceedings but as active subjects who are victims of a situation that goes way beyond their remit.
- A bill requiring the government to codify the children's rights and the protective instruments available to minors, so that the various statutory provisions currently spread

⁷⁸ The courses attended in Albania allow the issuance of a certificate from the Italian Labour Ministry.

out over several laws that do not always directly concern minors, are contained in a single coherent text, in keeping with the principles contained in the UN Convention.

- A bill requiring the amendment of currently applicable civil and penal legislation so as to ensure that Italian law is in keeping with the principles of the UN Convention;
- A bill setting up an Office for the Protection of Minors, in response to lobbying pressure by international organisations.

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THE NETHERLANDS

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ABBREVIATIONS

| | |
|--------|---|
| AC | (aanmeldcentrum) Centre where asylum seekers apply for asylum |
| AMA | (Alleenstaande minderjarige asielzoeker) Unaccompanied minor asylum seeker |
| B17 | Provisional residence permit for victims of trafficking during the investigation and legal procedure against the trafficker |
| CRI | (Divisie Centrale Recherche Informatie) Central Criminal Investigations Information Service |
| IND | (Immigratie- en Naturalisatiedienst) Immigration and Naturalisation Service |
| OC | (Onderzoeks- en opvangcentrum) Reception and investigation centre |
| Opbouw | Guardianship organisation for asylum seeking UAMs |
| OM | (Openbaar Ministerie) Public Prosecution Service |
| STV | (Stichting tegen vrouwenhandel) Organisation against trafficking in women |
| UAM | Unaccompanied minor |

INTRODUCTION

In 1996, a councillor of the municipality of Antwerp in Belgium, Patsy Sörensen, reported that Nigerian traffickers were using the asylum procedure for minors in the Netherlands to bring their victims to Belgian brothels⁷⁹. The military police in the region of Eindhoven were at that time investigating the disappearance of Nigerian minors from reception centres in the region. In September 1996, the first minors to have disappeared were found in Belgian brothels, where they had previously been discovered. Five Nigerian traffickers were arrested⁸⁰.

Since 1996, sexual exploitation of unaccompanied minors has been a focus of attention and concern in Dutch society. In 1997, the organisation Terre des Hommes⁸¹ published a report in which different groups of UAMs were mentioned as victims of sexual exploitation in the Netherlands. The report mentioned that Chinese minors were forced to work in prostitution prior to their request for asylum in the Netherlands. Another group of minors that caused public concern were the increasing number of Dutch nationals (often of Moroccan descent) that were being sexually exploited by a young generation of pimps.

Trafficking in minors and adults for sexual exploitation has recently become a nationwide priority of the police and judiciary. The number of cases against traffickers brought to court is rising as a result of this increased police attention.

Attention on trafficking is exclusively focused on trafficking for sexual exploitation and little is known about other forms of exploitation.

In this report, the information available on trafficking in unaccompanied minors for both sexual and other forms of exploitation was collected and analysed.

⁷⁹ Bouma, Joop (1996) Nigeriaanse Ndidi Chukuma was tienduizend dollar waard Trouw 21-09-96.

⁸⁰ Drie Nigeriaansen gevonden in Antwerpse prostitutie *Brabants Dagblad* 24-09-96.

⁸¹ Hoogendoorn, (1999 & 1997) *Kinderprostitutie in Nederland*, Terre Des Hommes page 3-13.

METHODOLOGY

All major research and policy reports on trafficking, sexual abuse of minors and the policy on unaccompanied minors were analysed. At the Mr de Graafstichting, all the newspaper articles covering the 1999-September 2000 period on juvenile prostitution and trafficking were analysed with a view to acquiring an overview of the most recent police and court cases. On the basis of this information, a questionnaire was formulated.

Key figures within the police, government organisations and social work organisations active in this field were selected and interviewed.

TABLE 1
NUMBER AND TYPE OF INTERVIEW WITH RESPONDENTS

| | Briefly | In-depth |
|--------------|-----------|-----------|
| By telephone | 9 | 5 |
| In person | 5 | 16 |
| Total | 14 | 21 |

14 respondents were interviewed briefly and 21 others extensively. Of the 21 respondents, five were extensively interviewed by telephone and the remaining 16 were interviewed in person.

1. UNACCOMPANIED MINORS

1.1 LEGAL FRAMEWORK

1.1.1 Asylum seeking unaccompanied minors

A special policy on unaccompanied minors has been pursued in the Netherlands since 1992. At the time, the Dutch immigration authorities were confronted with an increasing number of unaccompanied minors applying for asylum. Interviews with those minors confirmed that the majority had little chance of obtaining asylum. As a consequence of the ratification of treaties on the rights of minors⁸², these unaccompanied minors cannot be returned to their country of origin if adequate care is not available there. A policy on ‘Alleenstaande Minderjarige Asielzoekers’ or AMA (unaccompanied minor asylum seekers) was designed.

Extra care is available under this regulation for unaccompanied minor asylum seekers. Only UAMs below 17 and a half years of age at the date of entry are entitled to this extra care. UAMs who turn 18 within less than six months of their arrival in the Netherlands are considered as adult asylum seekers. An UAM is considered unaccompanied when he or she is not accompanied or cared for by one or both parents or another blood relative or relative by marriage aged over 18 years old.

Asylum seeking UAMs under 12 years of age are not allowed to apply for asylum by themselves. The application has to be made by an official guardian, provided by the guardianship organisation “Opbouw”. Asylum seeking UAMs below the age of 12 are not interviewed about their asylum request. This is considered to be too burdensome for young children.

Asylum seeking UAMs over 12 years of age or above have to report to one of the three Application Centres (AC), just like adult asylum seekers. It is at the AC that the first interview takes place. In this interview, the major issues are age assessment and the whereabouts of relatives. If the asylum seeker is considered to be a minor and unaccompanied, he or she is sent to a Reception and Investigation Centre (OC). At this centre, an extensive interview about the request for asylum is conducted. The objective is to have the minor interviewed by interviewers with specialised training in interviewing minors. Due to the growing number of asylum seeking UAMs, this is not always possible. During the interview, special attention is paid to the whereabouts of the minor’s family. After the interview, the Immigration and Naturalisation Services (IND) decide on the request for asylum. Due to a backlog at the IND and judiciary, the entire asylum procedure (including the different appeals) can take several years. In practice, very few UAMs receive a refugee residence permit⁸³.

After the interview, the IND undertakes a search for the whereabouts of the applicant’s family. If no family or other carer is located in the country of origin within six months, the unaccompanied minor receives a UAM residence permit valid for one year. This residence permit can be renewed if adequate care in the home country is still not available after that year. After three years, the residence permit for asylum seeking UAMs is changed into a residence permit on humanitarian

⁸² The 1989 UN Convention on the Rights of Children , 1970 European Convention on the Repatriation of Minors.

⁸³ Ministry of Justice (March 2000) policy document on planned new policy on UAMs.

grounds. It makes no difference if the UAM is already over 18 when the residence permit is renewed. Seventeen year olds are also included in the procedure for UAMs for three years.

Age Assessment

On the 1st of April 2000, the IND reintroduced an age assessment procedure for asylum seeking UAMs⁸⁴. An asylum seeking UAM, of whom the IND has serious doubts about his or her stated age, is asked for permission to take an x-ray of their collarbone. On the basis of this x-ray, the age of the person is estimated. If the UAM, according to this test, is definitely not a minor, he or she is inducted into the accelerated procedure for adult asylum seekers. If the UAM refuses to give permission for the x-ray, he or she will be considered to be an adult, unless he or she can prove to be a minor. Scientists criticize the reliability of the collarbone scans⁸⁵. Age assessment on the basis of the collarbone scan method is exclusively based on research carried out on young Caucasians. It is not clear if, among for example Africans, bone development takes place in the same number of years. Though the collarbone scan can help unaccompanied minors to prove they are genuinely under-age, the question of its reliability makes this method questionable. Officially the bone scan is carried out only with the consent of the minor. But refusal to give consent does have serious repercussions on the asylum procedure of the person involved. This makes the voluntary nature of this procedure questionable.

1.1.2 Legal situation of other unaccompanied minors

All unaccompanied minors can apply for asylum although not all such minors are aware of this. It is somewhat unclear in which cases an illegal unaccompanied minor found elsewhere is sent to an Application Centre (AC) to request for asylum. The police seem to play an important role in deciding this. Sometimes the decision to request for asylum is made by the guardian. Morelli and Hoogveld⁸⁶ make the observation that Eastern European UAMs especially are returned to their country of origin. Illegal minors are returned to their country of origin whenever adequate care is considered to be available there.

An unaccompanied minor who reports trafficking for prostitution purposes is entitled to a residence permit of a duration of three months, as stipulated in part B17 of the Aliens Act relating to victims of trafficking for sexual exploitation. If after this consideration period the victim decides to testify against the trafficker, a temporary residence permit is granted for the duration of the police investigation and trial of the traffickers. The duration of this permit can vary from a few months to several years. After the trial, or if the police investigation is cancelled, the residence permit is withdrawn. The victim then has to return to his or her country of origin. A residence permit on humanitarian grounds is hardly ever issued to victims of trafficking, even though the victim may have spent several years in the Netherlands in order to be a witness in the trial.

In recent years, social workers and lawyers have tended to encourage minor victims of trafficking to apply for asylum as UAMs in order to provide them with better protection and prospects for the future, in comparison with the provisions stipulated in the B17 regulation.

⁸⁴ Ministry of Justice (2000) *Leeftijdsonderzoek in de AC procedure*. Tussentijds bericht Vreemdelinlingencirculaire 2000/6.

⁸⁵ See for example: Scholtens, Broer (2000) *De status van het bot Volkskrant* 9-12-00, *Katern Wetenschap*.

⁸⁶ Morelli and Hoogveld (1999) *Report on separated children*. Defence for Children, page 14.

1.2 RECEPTION STRUCTURE

1.2.1 Reception structure for asylum seeking unaccompanied minors

Unaccompanied minors under twelve years of age are sent to one of the two special reception centres, called Valentijn, for young asylum seeking UAMs. During their stay there, a guardian is appointed. He or she decides on the appropriate follow-up care, e.g., placement in foster families or housing centres for young asylum seeking UAMs.

After their initial stay at the Application Centre (AC), asylum seeking UAMs over the age of twelve are sent to a special AMA unit in a reception and investigation centre (OC). During their stay at the OC, the guardian decides on the appropriate follow-up care. UAMs can be sent to a housing centre for asylum seeking UAMs to live collectively with other UAMs or given a room, where he or she can be more independent.

Due to the increasing number of asylum seeking UAMs, the follow-up care is not as readily available as before. Officially, a minor should stay no more than 3 months in the OC. In recent years, the average length of stay at the OC has risen to 6 months. Older asylum seeking UAMs are sometimes sent to asylum seekers residence centres (AZC), where no special care is available for asylum seeking UAMs.

The special accommodation facilities are only provided for UAMs under 18. As soon as an UAM becomes 18, he or she has three months to look for accommodation elsewhere. While the application for asylum procedure is still underway, the UAM is entitled to a certain amount of money, but other types of assistance (e.g., provided by the mentor) are stopped. Emotional and social problems (like isolation and depression) among asylum seeking UAMs of 18 years of age and above after they leave accommodation facilities designed for asylum seeking UAMs are reported by social workers.

All asylum seeking UAMs are entitled to an official guardian. The guardianship organisation 'Opbouw' provides these guardians. Officially, guardianship stops as soon as the UAM becomes 18. Asylum seeking UAMs needing extra care can get extended guardianship until they are 21.

Asylum seeking UAMs are entitled to schooling whereas adult asylum seekers are not. If an UAM becomes 18 without having received a permanent residence permit, the right to schooling stops.

1.2.2 Reception structure for other unaccompanied minors

Unaccompanied minors who do not apply for asylum are also entitled to a legal guardian. The Child Welfare Council (Raad voor de Kinderbescherming) can provide provisional guardianship although in practice this does not always happen⁸⁷.

Unaccompanied minors who report trafficking to the police are guaranteed housing (often in relief centres) and social benefits for the duration of their residence permit but are not allowed to work.

According to the Dutch Aliens Act, aliens can be placed in confinement while awaiting deportation. Though as a general rule minors are not to be deported, this does happen occasionally, especially

⁸⁷ Morelli and Hoogveld (1999) *Report on separated children*. Defence for Children, page 14.

when criminality or prostitution is involved⁸⁸. Unaccompanied minors awaiting deportation are sometimes put in secure youth care institutions (often youth prisons). The police sometimes keep unaccompanied minors in so-called “social detention”⁸⁹.

1.3 NUMBER OF UNACCOMPANIED MINORS

1.3.1 Asylum seeking unaccompanied minors

The number of asylum seeking unaccompanied minors in the Netherlands has been rising considerably in the last five years (see table A.1). 1 562 unaccompanied minors reported themselves in 1996. In the first nine months of 2000, this number rose to 4 835.

TABLE 2
NUMBER OF UNACCOMPANIED MINORS APPLYING FOR ASYLUM

| Year | Number of asylum seeking unaccompanied minors | Percentage of Unaccompanied minors to the total number of asylum requests |
|------------------------|---|---|
| 1996 | 1562 | 7% |
| 1997 | 2660 | 8% |
| 1998 | 3504 | 8% |
| 1999 | 5547 | 14% |
| 2000 (until september) | 4835 | 19% |

The increasing number of asylum seeking unaccompanied minors cannot be explained away by the increase in the influx of asylum seekers to the Netherlands. Every year, asylum seeking unaccompanied minors form a larger percentage of the total influx of asylum seekers. In 1996, unaccompanied minors constituted 7% of the total influx of asylum seekers. In 1999, this figure rose to 14%.

There are some striking differences between the countries of origin of the adult asylum seekers and those of the asylum seeking unaccompanied minors. Over the 1996-2000 period, the largest groups of adult asylum seekers came from Iraq, Afghanistan and Yugoslavia, while the largest groups of unaccompanied minors came from China, Somalia, Sierra Leone and more recently Angola.

TABLE 3
PERCENTAGE OF UNACCOMPANIED ASYLUM SEEKING MINORS PER COUNTRY

| Country | 1997 | 1998 | 1999 |
|-------------|-------|------|-------|
| China | 63.7% | 52% | 63.6% |
| Afghanistan | 2.9% | 3.1% | 4.9% |

Source: IND

⁸⁸ Idem

⁸⁹ See for example case study 12.

Over the 1995-1999 period, no more than 5% of Afghan asylum seekers were unaccompanied minors. Analysis of statistics relating to the nationals of countries producing a high number of asylum seeking UAMs shows that there is a considerable disparity between the numbers of asylum seeking UAMs and of asylum seeking adults from those countries. Among those nationalities, requests for asylum by unaccompanied minors form a large percentage (if not the majority) of the total number of asylum requests by nationals from those countries. Among the Chinese asylum seekers for example, the percentage of unaccompanied minors rose from 29.8% in 1995 to 63.5% in 1999. This is also the case of asylum seekers from Sierra Leone, and in recent years, Guinea and Togo.

It is not necessarily true that adults from those countries do not enter the Netherlands. It is known that adult Chinese nationals who come to the Netherlands do not apply for asylum because they usually do not have any chance of obtaining it. The chances of obtaining a residence permit are higher via the special regulation relating to asylum seeking UAMs. According to the immigration authorities, this is inciting a growing number of adults to apply for asylum as unaccompanied minors. The age assessment procedure was reintroduced to prevent this practice. Respondents have the impression that smugglers direct young people from the above-mentioned countries to the UAM procedure.

Sex ratio

In general, more men than women apply for asylum in the Netherlands. Over the 1995-1999 period, about one third of the asylum seekers were female. Also, Smit⁹⁰ found that of all the 5 450 files of asylum seeking UAMs relating to the 1993-1996 period, about one quarter were female. Smit conducted further research on a sample of 427 files relating to the same period and found disparities in the sex ratio of asylum seekers from different countries. A relatively high number of UAM girls were found to be from Somalia, Central and Eastern Africa and China. The number of UAM girls from Northern Africa and Europe was very low. It was not possible to obtain data on the sex ratio of the total number of UAMs in recent years.

Age

The majority of asylum seeking UAMs, about 50%, were either 16 or 17 years old in 1999⁹¹. Approximately 25% were between 12 and 16 years of age and 10% below 12 in the same year.

1.3.2 Other unaccompanied minors

No figures or estimates are available on unaccompanied minors who do not apply for asylum.

⁹⁰ Smit, M. (1997) *AMA's in Nederland. Redenen voor de vlucht, asielprocedure en overgang naar zelfstandigheid*. Rijksuniversiteit Leiden, vakgroep orthopedagogiek, page 16, 17 and 24.

⁹¹ Opbouw (1999) Annual report (jaarverslag) page 6.

2. TRAFFICKING IN UNACCOMPANIED MINORS

2.1 LEGAL FRAMEWORK

In the Dutch Criminal code, trafficking is exclusively defined in relation to prostitution and described in section 250a of the Criminal Code.

Article 250a, Dutch Criminal Code

Guilty of violating this article is the person who:

1. forces another person to engage in prostitution by coercion, deception or abuse of authority
2. induces a minor to engage in prostitution
3. recruits, abducts or takes a person to engage in prostitution in another country
4. receives income from prostitution involving a minor or a person forced to engage in prostitution
5. forces another person to surrender income from prostitution.

Under Dutch law, all forms of forced prostitution are considered as trafficking. If minors or immigrants are concerned, force does not have to be part of the recruitment process. Any person who provides an illegal immigrant or a minor with the possibility to work in prostitution (for example someone renting out a window brothel) is liable to prosecution for trafficking. The maximum penalties are higher when minors under 16 year olds are trafficked or if severe physical injuries are inflicted. In this case, the maximum penalties rise from six to eight years' imprisonment.

Trafficking for other purposes than prostitution is not considered as trafficking under Dutch law. These cases can be prosecuted using two other sections of the Criminal Code: i.e., smuggling people into the country (mensensmokkel) and abduction (mensenroof). As of 31 December 1993, the smuggling of aliens is punishable under Article 197a of the Dutch Criminal Code. In 1996, the maximum penalty was raised from 1 to 4 years imprisonment. The smuggling of aliens is described as follows:

Article 197a, Dutch Criminal Code on the smuggling of aliens

Guilty of violating this article is the person who:

assists another for profit to enter or stay in the Netherlands or any other state that is obliged to conduct border checks partly on behalf of the Netherlands, or to provide him/her for profit with the opportunity, means or information in the knowledge that or having serious grounds to suspect that the entry or stay of this person in the Netherlands is illegal.

In short, this could be described as assisting immigrants for profit to cross the border illegally or to stay illegally in the Netherlands or another Schengen state.

The person who is assisted (the smuggled person) is not punishable on the basis of Article 197a Sr. However, this person can be punished on the basis of another article, for instance Article 231 (false passport).

Profit is an important factor in the definition of the smuggling of aliens. The consequence of this element is that smuggling for moral purposes (for example churches assisting illegal family reunification) is not punishable. The smuggling of minors is not seen as a separate crime, but it can come under the definition of article 278 on abduction.

Article 278 of the Dutch Criminal Code on abduction

Guilty of violating this article is the person who:
brings someone over the European borders in order to put him/her under the power of others or in a helpless position.

This article is used to fight cases of for example mail order brides or forced labour in domestic work. Visser⁹² carried out an inventory on the number of court cases relating to the 1994-1998 period in which one or more of these articles were used. On the basis of the figures provided by the public prosecutors, he concludes that these articles are often used jointly. According to Visser,⁹³ 582 cases of trafficking for prostitution purposes were registered at the public prosecutors' offices between 1994 and 1998. In total, 383 of these cases were brought to court. Three hundred of the 383 court cases led to a verdict of guilt with punishments imposed. In most cases, the punishment consisted of imprisonment, sometimes in combination with fines or alternative punishments. The average length of the prison sentence was 25 months during 1994-1998. No separate information on penalties in cases of trafficking of minors is available in this study.

2.2 OTHER FORMS OF EXPLOITATION OF TRAFFICKED MINORS

2.2.1 Debt bondage

Due to the intensified checks at European borders, a growing number of asylum seekers are resorting to the services of smugglers to enter the Netherlands. According to a joint ministerial and judiciary report⁹⁴ on the smuggling of aliens, 75% of the 39 299 persons who requested for asylum in 1999 used the services of a smuggler to cross borders and/or arrange for (false) travel documents. This applies to minors and adults alike. Respondents working with asylum seekers made the observation that the sums of money paid to smugglers seem to be rising. Some respondents stated that this is partly due to the increased restrictions on the entry of non-EU citizens into Europe. These restrictions make it difficult, if not impossible, for an asylum seeker to reach the Netherlands

⁹² Visser, Jan H. & Hetty Oomens (2000) Prostitutie in Nederland in 1999. De nulmeting, een jaar voor de invoering van de wet die de opheffing van het algemene bordeelverbod regelt. Amsterdam: Mr de Graafstichting. Bijlage E.

⁹³ Idem page 5.

⁹⁴ An annual report by the Ministry of Internal Affairs, Justice and Foreign Affairs, the Immigration and Naturalisation Services and the Judiciary on the smuggling of aliens in 1999, as quoted in *Asielzoekers komen met 'hulp'* NRC 2-1-00.

without the assistance of a smuggler. Smugglers are not always (entirely) paid beforehand. Some are paid after the smuggled person's arrival in the Netherlands. This means that the smuggled person has to work in the country of arrival to pay the debt. The repayment may be enforced by threats. These practices come close to the IOM definition of trafficking: "If a migrant is illicitly engaged (recruited, kidnapped, sold, etc.) and/or moved, either within national or across international borders, and if 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"⁹⁵. More than one source confirmed that these practices also happen with unaccompanied minor asylum seekers.

Case 1

Debt bondage to former smugglers

A 16-year-old asylum seeker from the South of Iraq lives in a house for asylum seeking UAMs. He works hard at school and excels in sports. He wants to become a teacher of sports and devotes all his time to this aim. After some months, the boy suddenly starts playing truant. His mentor talks with him about it, and the boy promises to improve his behaviour. He, however, continues playing truant and the mentor decides to talk with him again. The mentor warns the boy that he faces suspension if he continues like this. The boy collapses and reveals to the mentor that his smugglers had reappeared and demanded 5 000 Guilders (approx. 2 000 Euros) to be paid within four months. The boy is very afraid of the smugglers and does not want to report them to the police. After this conversation, the boy did not go to school anymore.

Source: social work organisation

In general, victims of these practices do not report these matters to their guardians and mentors and even less so to the police. Only one respondent mentioned the case of a Sri Lankan boy who reported his case to the police. The boy's trip had been paid for beforehand. After arriving in the Netherlands, the traffickers demanded a further sum of money. The boy considered this so unfair that he reported them to the police. Although some mentors or guardians have the impression that these things are happening to their clients, it is very difficult to make minors tell the truth because they feel threatened by the traffickers. Also, these minors know that they are not officially allowed to work. They fear being penalised if they admit to working. Another difficulty could be that not all mentors and guardians are aware of these practices. Guardians and mentors tend to interpret the behaviour of the minor as difficult, especially when the efforts of the minor to pay their debts interferes with their schooling. Victims of trafficking/smuggling who have to work hard stop going to school or when they do go, no longer accomplish anything because they are too tired. One respondent mentioned several examples of such cases.

⁹⁵ See IOM (1999) *Trafficking in Migrants IOM policy and responses*, page 4.

Case 2

Debt bonded to a political organisation

A 17-year-old Kurdish boy from Northern Iraq stops going to school. He gambles regularly, drinks too much and often gets into fights. Due to this behaviour, he is evicted from his room. One day he gets wounded and says it happened at a political meeting. He tells a friend that he has to participate in all kinds of political actions and has to pay 200 Guilders a month to a political organisation. The money is used by the organisation to smuggle people out of Kurdistan. The boy feels he cannot stop his involvement in the organisation, because he is supervised and threatened by the organisation's leaders.

Source: social work organisation

In some cases, these political groups pay travel agents or function as such themselves. There are reports that these political groups sometimes put pressure on unaccompanied minors. However, there are no indications on how widespread this phenomenon is and on how large the debts that minors have to pay are.

2.2.2 Bonded labour

In the above-mentioned cases, the UAMs were forced to pay back large amounts of money. In cases of bonded labour, victims pay off their debts by working for the trafficker, often in a place that the trafficker chooses. Different respondents mentioned Chinese minors as victims of bonded labour. Police investigations have found some evidence of this⁹⁶.

Chinese people are smuggled by what are called 'snakeheads' in Chinese. These smugglers can be male or female. Snakeheads do not operate in isolation but tend to have connections with Chinese triads (criminal gangs/organisations). The triads not only employ Chinese people but also locals. In the so-called "Dover incident" in which 58 Chinese migrants died of suffocation in a truck while trying to enter Great Britain, the smugglers were of Turkish and Dutch descent.

Police investigations confirmed that Chinese migrants have to pay smugglers between 10 000 and 50 000 Guilders (between 5 000 and 25 000 USD)⁹⁷. Those who can afford pay the fee before travelling, while many pay for their trip after their entry into the West. Some face periods of bonded labour during the trip in order to continue their trip to the West. Moscow is often mentioned as a place where migrants are employed in bonded labour in order to pay for the next stage of their journey. Specialists in Chinese migration confirm the existence of a Chinese community in Moscow where prostitution and bonded labour take place.

Respondents have the impression that many Chinese boys (girls are not mentioned) begin work while still staying in reception centres (OCs), soon after their arrival in the Netherlands. It is not clear where they work, but respondents assume they work in Chinese restaurants and shops. Some Chinese boys work far away from the place where they live, which makes a combination of school and work even more difficult. This could also be a sign of bonded labour. Considering their lifestyle

⁹⁶ *Jeugdjournaal* nummer 3, maart/april 1998 Vermiste Chinese Alleenstaande asielzoekers (AMA's).

⁹⁷ *Idem*, page 13.

and clothing, Chinese boys do not seem to profit from their work. A respondent working in a reception centre mentioned that one boy admitted to his mentor that he had to send all his money to someone, although he refused to say whom.

During the UAM procedure, young Chinese people are found to be already able to speak Dutch or German. They apparently have been residing in Europe for sometime before applying for asylum. It is unclear whether at the time of applying for asylum, they have finished paying off their debts, are still paying them or whether the UAM procedure is a way of escaping from their smugglers.

Case 3 **Escaping from bonded labour**

A seventeen-year-old Chinese boy from the Fujian Province Region of China makes a request for asylum. After being in the reception centre for only a few weeks, the workers at the centre notice that he already speaks quite good Dutch. His mentor talks with him about this and, during the conversation, the boy admits that snakeheads had brought him to the Netherlands four years before. In the Netherlands, he was forced to work for the snakeheads, although he did not want to say where. The boy worked seven days a week, became very tired of his work and escaped one day and decided to request for asylum.

Source worker in reception centre

According to the Dutch police, the triads use (the threat of) violence if a victim fails to pay their debts. Cases of violence against Chinese asylum seeking UAMs are not reported. Chinese victims of such violence are too afraid to report their traffickers to the police. Different respondents mentioned that some of the Chinese asylum seeking UAMs appeared to be very scared.

Disappearance of Chinese asylum seeking UAMs is also conspicuous. Two respondents mentioned that once 18 years of age, Chinese asylum seeking UAMs tend to find housing very quickly and loose contact with their guardians. During the 1995-1998 period, 197 Chinese asylum seeking UAMs disappeared from centres for asylum seekers⁹⁸. It is unclear what became of them.

In 2000, Chinese asylum seeking UAMs were still the second largest group of unaccompanied minors requesting for asylum. The difficult economic situation in China is said to be the most important push factor of Chinese migrants to Europe. In the study by Venicz and Vanwesenbeeck,⁹⁹ respondents mentioned that some of the minors sent to Europe are second children, i.e., children born in a family that has already one child. Because of the one-child policy in China, these children are not entitled to civil rights or education.

In some cases, the Netherlands is just a stop-over on the migrant's route to Canada, the USA or elsewhere. In January 2001, a truck driver found a Chinese girl of 16 and a boy of 17 in his truck. They were trying to enter Great Britain¹⁰⁰.

⁹⁸ Immigratie en Naturalisatiedienst (1998) *Trends en ontwikkelingen in de vreemdelingenketen in 1998*, paragraaf 3.8.

⁹⁹ Venicz, Liesbeth & Ine Vanwesenbeeck (1998) *Aard en omvang van (gedwongen) prostitutie onder minderjarige (allochtone) meisjes*. NISSO: Utrecht, page 33.

¹⁰⁰ Twee illegale Chinezen gevonden in vrachtauto NRC 19-01-01.

Experts on China report that the flow of illegal Chinese (minors and adults) to the Netherlands is growing¹⁰¹. Some find work within the Chinese community as au pairs or in Chinese shops or restaurants. Not all of this can be considered as bonded labour.

2.2.3 Trafficking for criminal activities

In 1997, the police in The Hague arrested a number of Chinese people who were trying to extort money from a Chinese restaurant owner. Among them were two Chinese unaccompanied minor asylum seekers. The Chinese restaurant owner, who had reported to the police that he had been threatened, was killed three days after the trial of one of the suspects¹⁰². The minors worked for a Chinese criminal organisation in order to pay their debts. They had disappeared from their residence unit in a city in the East of the Netherlands. According to an article in a police magazine, minors do not always disappear completely. Some return after their debts have been paid or when they are no longer useful to the organisation¹⁰³.

2.2.4 Other forms of trafficking

Dutch households do not have a tradition of employing au pairs, since the majority of the Dutch women did not work after the birth of their children. Over the last decade, this trend has slowly changed. Most au pairs working in the Netherlands are over 18 and stories of exploitation of minors are unknown. Last year, the military police accidentally found a gang smuggling Moroccan minors for household work, which can be described as trafficking.

Case 4

Trafficking for household work

In 1998, the Rotterdam police found a highly distressed Moroccan twelve-year-old girl on the streets. She was placed in a children's home. There she said that she had been smuggled to the Netherlands with the consent of her parents to work in a Moroccan household. Some months later, the police intercepted another four Moroccan minors, two boys of 17 and two girls of 14 and 17. They were destined to do housework in Moroccan households in the Netherlands. The children trafficked to the Netherlands were not paid for their work. The traffickers received a sum of money per delivered minor. The police reported one case of sexual abuse. The minors were placed in children's homes before being returned to Morocco. Eleven suspects were arrested.

Source: *Nieuwsblad van het Noorden*, 3-3-99

Recently, a new form of trafficking has aroused attention. Dutch football clubs recruit successful football playing minors in Western Africa and Brazil¹⁰⁴. Some clubs, e.g., Ajax, train the minors in their home country and only bring them to Europe when they reach adulthood. Other clubs bring

¹⁰¹ See for example Andersson Toussaint, Paul (2000) *Karakters op de Zeedijk*, *NRC M Magazine* November 2000, page 19.

¹⁰² *Jeugdjournaal* number 4 mei/juni/juli 1998, Vermiste Chinese Alleenstaande asielzoekers (vervolg).

¹⁰³ *Jeugdjournaal* number 3, maart/april 1998 Vermiste Chinese Alleenstaande asielzoekers (AMA's).

¹⁰⁴ Justitie verdiept zich in spelershandel door clubs *NRC* 12-01-01.

successful minor football players to the Netherlands. The Immigration and Naturalisation Services, together with public prosecutors' offices, have undertaken an investigation to ascertain whether the practices of certain football clubs regarding the recruitment of non-European players can be considered as trafficking in human beings. An investigation of the passport of the minor Brazilian player Leonardo by the Rotterdam Public Prosecutor has concluded that Leonardo was working on a false Portuguese passport to evade immigration restrictions¹⁰⁵. The player is no longer allowed to play until a valid work permit has been granted. Other possible penalties are under consideration.

2.2.5 Trends

So far, bonded labour by UAMs has not been systematically investigated. Social workers and the police are not always aware of this phenomenon. It is therefore difficult to say how widespread the phenomenon is. Most of the attention is now focused on sexual exploitation. The amount of pressure apparently put on minors in the cases of bonded labour mentioned above confirms that this phenomenon requires more attention.

Little is known about the type of work minors have to perform. Restaurants and shops owned by members of the ethnic communities of the minors are mentioned as exploiters of this type of labour. Chinese minors are most often mentioned as victims of this practice. Besides bonded labour, criminal activities are found to be conducted by Chinese minors as a way of paying their debts.

The connection between the recruitment of minor football players and trafficking is still to be investigated.

It is conspicuous that different respondents mentioned smugglers as the ones forcing the victims into bonded labour in order to pay their travel debts. This implies that the smuggling of aliens and bonded labour seem to be becoming more interwoven. It is noticeable that almost all the cases of bonded labour mentioned by the respondents concern boys. Girls are mentioned more often as victims of sexual exploitation.

2.3 SEXUAL EXPLOITATION OF TRAFFICKED MINORS

2.3.1 Prostitution

Minors trafficked to the Netherlands for the purpose of sexual exploitation (usually in prostitution) have been coming from the same countries for a number of years now¹⁰⁶. Though each nationality seems to have a standard pattern in which the girls are recruited and forced into prostitution, it is important to bear in mind that individual cases never comply totally with the general stereotype. Since most traffickers do not work in large gangs, their methods and the extent of force and deception they use differ. Traffickers also swiftly adapt their methods and routes to changing circumstances.

¹⁰⁵ Portugese pas Leonardo was vervalst NRC 10-01-01.

¹⁰⁶ Compare for example the conclusions of Venicz and Vanwesenbeeck (1998) *Aard en omvang van (gedwongen) prostitutie onder minderjarige (allochtone) meisjes*. NISSO: Utrecht and Hoogendoorn (1999 & 1997) *Kinderprostitutie in Nederland*, Terre Des Hommes.

a) Nigerian and other West African girls

In 1996, workers at the Reception and Investigation Centre in Eindhoven alerted the police after noticing that many minor girls from Nigerian and other West African countries (e.g., Liberia, Sudan and Sierra Leone) disappeared soon after submitting their request for asylum. The military police conducted an investigation and found that some of the girls who had disappeared had returned to brothels in the Netherlands, Belgium and Germany. Since 1996, different police teams, with names like 'voodoo team', have carried out investigations on Nigerian traffickers, sometimes in cooperation with the police in Belgium and Germany. In three different major court cases, approximately 20 to 40 traffickers were convicted and given prison sentences ranging from six months to nine years¹⁰⁷. Thanks to these police investigations and three research reports¹⁰⁸, more information is now available on the way in which Nigerian traffickers operate.

The Nigerian girls and women working in prostitution in the Netherlands were until recently mainly recruited in Edo State, some of them under false pretences. Others know that they are going to work as prostitutes but are not aware under what circumstances. The main reason why girls cooperate with the traffickers is the poor economic and unstable socio-political situation in Nigeria. It is difficult to get a good insight into the backgrounds of individual trafficked Nigerian girls. Most are very afraid and refuse to tell more than the standard story they are taught by their traffickers. The majority state that their parents are dead, because this is necessary for consideration as unaccompanied minor asylum seekers.

The Nigerian organisation NDMN¹⁰⁹ (Nigerian Democratic Movement, Netherlands) conducted research among victims, traffickers and families of victims in Nigeria. According to this research, parents often consent to their daughters being sent to Europe. In the countries of origin, many people know stories of women who have gone to Europe to work as prostitutes and who have been able to send money home to have their own house built and provide for the rest of the family. This is a strong incentive for both parents and girls.

As both minors and young adult women are recruited, it is not always easy to determine who is a minor and who is not. In the first police investigation on Nigerian trafficking, Nigerian women were found to be registered in Belgian brothels as adults, and yet they had applied for asylum as minors in the Netherlands.

For a number of years, the victims were brought directly to the Netherlands, often using false documents. In the Netherlands, the traffickers directed the women to Application Centres (AC) to apply for asylum as minors¹¹⁰. In some cases, the women were advised to apply for asylum as

¹⁰⁷ De Stem 24-3-00, Veluws Dagblad 22-12-99, Leeuwarder Courant 24-9-99.

¹⁰⁸ Oviawe and Iyare (1999) *Handel in Nigeriaanse meisjes naar Nederland*. Terre des Hommes.

Dijk, Rijk van & Thera Rasing, Nina Tellegen, Wim van Binsbergen (2000) *Een schijn van voodoo. Culturele achtergronden van de handel in Nigeriaanse meisjes voor de Nederlandse prostitutie, een verkenning*. African Studies Center, Leiden.

Vellinga, Fokkeline R. (1999) *West-Afrikaanse Asylum seeking UAM's: vermist, maar ook gemist? Een onderzoek naar de voorkoming van verdwijning van West-Afrikaanse alleenstaande asielzoeksters (Asylum seeking UAM's) uit opvangcentra in Nederland*. Hogeschool Enschede, Academie Bestuur & Recht, Bestuurskunde and Regiopolitie Noord- en Oost Gelderland, Divisie Operationele ondersteuning.

¹⁰⁹ Oviawe and Iyare (1999) *Handel in Nigeriaanse meisjes naar Nederland*. Terre des Hommes.

¹¹⁰ Vellinga, Fokkeline R. (1999) *West-Afrikaanse Asylum seeking UAM's: vermist, maar ook gemist? Een onderzoek naar de voorkoming van verdwijning van West-Afrikaanse alleenstaande asielzoeksters (Asylum seeking UAM's) uit opvangcentra in Nederland*. Hogeschool Enschede, Academie Bestuur & Recht, Bestuurskunde and Regiopolitie Noord- en Oost Gelderland, Divisie Operationele ondersteuning, page 15.

nationals of another country e.g., Liberia or Sierra Leone, since nationals of those countries could not be deported. The police found lessons on: “How to convince –the –police –that –you –are –a –Liberian” in a trafficker’s house¹¹¹. Lawyers reported that they were confronted with Nigerian men applying for asylum, but whom they suspected of coming to the Netherlands to check on how the asylum procedure functioned.

From the application centres, the girls were sent to the Reception Centres (OC). After their arrival at the centre, the girls called a contact person to come and pick them up. Most of them disappeared within a few days, i.e., before their interview about their asylum request had taken place. The contact person sells the girls to a woman referred to as a ‘madam’. A madam is usually a Nigerian (ex) prostitute who exploits several other prostitutes. The girls often live in the house of this madam or in a place she picks for them. The girls also have to pay debts, varying from a 10 000 to 40 000 USD, to the woman. The period over which the girls pay their debts varies. In some cases, the debts continue to rise because of all kinds of financial penalties. As soon as their debts are paid, the girls can usually work for themselves. Some girls are said to become madams themselves.

Case 5
Trafficking of a Nigerian minor

A Nigerian girl of 16 years of age from Edo State grew up at her grandmother’s because her mother lived in England. The relationship with her grandmother was difficult. Someone approached the girl and promised to take her to her mother in England. She had to pay for the service by working for him after she had arrived in England. She was sent to Amsterdam and instructed to apply for asylum as a minor. After arriving in the asylum centre, the girl called a contact person to pick her up. Before being taken to a window brothel, she was forced to have sex with one of the traffickers. After that, she was sold to a Nigerian madam in Amsterdam, who forced her to work as a prostitute in a window brothel. The girl had about 8 abortions at a regular abortion clinic during her time as a prostitute. An African client helped her escape.

Source: social worker

A number of strategies are used to force girls into prostitution. Sexual violence is mentioned, especially in the beginning. Different girls report that their trafficker raped them. Cases of physical violence are also reported¹¹².

Different ritual practices are another common way of putting pressure on trafficked girls. The military police found ritual objects in houses of traffickers. They found little sachets with girls’ names embroidered on them. They contained the blood, hair, nails and pubic hair of trafficked girls. In Western Africa, possessing these elements of another human being is considered to be a way of having power over the latter. The Africa Study Centre carried out research on the use of rituals by Nigerian traffickers¹¹³ and found out that traffickers adapt accepted ritual practices, e.g., a pledge to a deity promising to pay the debt, to serve their own ends.

¹¹¹ Venicz and Vanwesenbeeck (1998) *Aard en omvang van (gedwongen) prostitutie onder minderjarige (allochtone) meisjes*. NISSO: Utrecht, page 34-35.

¹¹² Oviawe and Iyare (1999) *Handel in Nigeriaanse meisjes naar Nederland*. Terre des Hommes page 6.

¹¹³ Oviawe and Iyare (1999) *Handel in Nigeriaanse meisjes naar Nederland*. Terre des Hommes, page 7.

The use and abuse of these ritual practices has led to intense media attention. The media and the police referred to the rituals as “voodoo practices” but this terminology is officially incorrect, since voodoo is a term from Haiti and not from Western Africa. However, the term “voodoo” is used by Nigerian Protestant churches in a pejorative sense in reference to indigenous Nigerian religions. According to the study by the Africa Study Centre, the term voodoo mystifies what really happens. Much of the fearful and difficult behaviour of the girls has been attributed to the use of rituals. However, it has to be pointed out that rituals are usually used in combination with more direct threats. Threats to the family in Nigeria are reported frequently. These threats are sometimes carried out with the help of corrupt Nigerian officials¹¹⁴.

Different police investigations have demonstrated that Nigerian traffickers do not operate in highly organised gangs. They are usually loosely organised individuals using different strategies of recruitment and different levels of force. Oviawe and Iyare¹¹⁵ state that more force and deception are used with minor than with adult women. Their findings could not be confirmed by police research.

Most convicted traffickers are Nigerian men and women with Dutch passports or residence permits. Some traffickers claimed to come from countries such as Liberia although it is not clear whether this was true or whether the traffickers used the countries in question in order to be granted asylum. Some of the convicted traffickers had a criminal record. Some of the staff members of the Dutch Embassy in Lagos were accused of being involved in providing the necessary visa to girls that were to be trafficked. The Dutch government carried out an investigation into this matter and, according to the NDMN, some of the staff members at the Dutch Embassy in Lagos have been replaced.

The number of Nigerian girls and women working as prostitutes in the Netherlands has risen considerably in recent years. Nigerian prostitutes are known for their aggressive way of attracting clients. Prostitution field workers have observed that these prostitutes also tend to ask for a substantially lower price than the usual price in the red light districts where they work. Other prostitutes accuse Nigerian prostitutes of having unprotected sex (without a condom) with their customers in order to attract more clients. Proof of this observation could be the higher rate of pregnancy among Nigerian girls. According to the report by Oviawe and Iyare¹¹⁶, there are reports of frequent abortions, sometimes privately performed. All these are signs of the girls’ urgency to earn money.

Most respondents mentioned the difficulties involved in communicating with Nigerian girls. Girls found in brothels hardly ever make coherent statements, and almost none report their traffickers to the police. Nigerian girls exhibit a behavioural pattern that is difficult to explain. A number of respondents working with Nigerian girls mentioned a sort of nervous breakdown. During the nervous breakdown, the girls lose consciousness and sometimes have convulsions. These attacks happen to girls who have lost the telephone number of their contact person, but also to those taken out of brothels. As the girls behave in a fearful and distracted manner, it is difficult to talk about the nature of these attacks with them.

Dijk, Rijk van & Thera Rasing, Nina Tellegen, Wim van Binsbergen (2000) *Een schijn van voodoo. Culturele achtergronden van de handel in Nigeriaanse meisjes voor de Nederlandse prostitutie, een verkenning*. African Studies Center, Leiden.

¹¹⁴ Venicz and Vanwesenbeeck (1998) *Aard en omvang van (gedwongen) prostitutie onder minderjarige (allochtone) meisjes*. NISSO: Utrecht, page 34,35.

¹¹⁵ Oviawe and Iyare (1999) *Handel in Nigeriaanse meisjes naar Nederland*. Terre des Hommes page 6.

¹¹⁶ Idem.

Trends

Initially, most of the Nigerian girls trafficked to the Netherlands were from Edo State. In Italy, the population of Nigerian prostitutes has for a number of years been known to be ethnically more diverse. In the Netherlands, this diversification is also starting. Apparently, Nigerian traffickers are broadening their recruiting area even outside Nigerian borders. The last police investigation found that girls from Malawi are also being trafficked by Nigerian traffickers. Nigerian criminals are known to be active in South Africa, which may explain the trafficking of girls from Southern African countries.

The traffickers sending girls to the Netherlands quickly adapt their strategies to changes of policy in the Netherlands. For a number of years, the asylum procedure for unaccompanied minors was used to send Nigerian prostitutes to Europe. This has changed. The last police investigation on Nigerian traffickers indicates that the majority of the victims have not sought asylum. A lawyer reported a case of a minor applying for asylum as an adult by wearing a wig in order to appear older. Other girls do not apply for asylum at all. They are sent to the Netherlands via Eastern Europe (Croatia is mentioned) over land. Once in the Netherlands, they use false or look-alike passports to be able to work in regular prostitution. Some informants have reported on illegal brothels for minor Nigerian prostitutes in predominantly migrant residential areas. So far, the conviction of a number of traffickers has no visible effect on the number of Nigerians working in prostitution in the Netherlands.

b) Chinese girls

In 1997, a report by the organisation Terre des Hommes¹¹⁷ mentioned the presence of trafficked Chinese girls in the Dutch asylum procedure. An unknown number of Chinese girls who requested for asylum as minors said they were forced to work in prostitution in Eastern and Western European countries. The police have so far not been able to successfully investigate concrete cases of sexual exploitation in the Netherlands.

It is difficult to get a good insight into the way in which Chinese girls are recruited. Like the boys, most Chinese girls tell a standard story in order to get access to the asylum procedure for unaccompanied minors. Many state that their parents are dead and that they grew up in an aunt's or grandmother's household. They further state that when the grandmother died, they had to sell the family house in order to survive and that it is at that point that they were approached by a snakehead (smuggler), who would take them to Europe. The reality is probably more diverse. In her study, Ayotte mentions¹¹⁸ that China has a history of trafficking and that many women and girls, especially in the countryside, are sold or abducted.

At the moment, many of the Chinese minors in the Netherlands come from the region of Fujian. Their socio-economic backgrounds vary. Some of the girls appear uneducated, while others have had some form of education. The latter are able to recite classic Chinese poetry, a sign that they must have been to school for a number of years. Some of the Chinese migrants applying for asylum as minors are in reality older.

¹¹⁷ Hoogendoorn 1997 Kinderprostitutie in Nederland. Terre des Hommes.

¹¹⁸ Ayotte (1999) *Separated children coming to Europe*. Save the Children, page 64.

Economic problems are thought to be the most important push factor. The report by Venicz and Vanwesenbeeck¹¹⁹, mentions another push factor, that is, some of the minors are said to be so-called second children, i.e., those born in a family with already one child. These second children have hardly any rights and are often not registered with the Chinese public authorities. Ayotte¹²⁰ mentions something comparable, where she quotes a lawyer stating that the girls are sent away by their parents so that the latter can have another child, hopefully a son.

The journey to Europe is long and involves stop-overs in different countries. Almost all Chinese migrants mention that they have been in Moscow for a period of time. Some tell stories of how they have been forced to work in prostitution in Moscow. They claim to have been confined in a private house where they had to work exclusively for Chinese clients.

Once the girls had worked long enough to pay for the next stage of the journey, they were sent to the Netherlands, usually via the Czech Republic. Some of the girls have reported that they had to work as prostitute in the Netherlands. Other girls say that they were (supposed to be) sold as concubines to elderly rich Chinese men. Most girls cannot be very specific about their place of work. An added problem is the fact that most Chinese minors cannot read anything but Chinese, which makes it difficult for them to identify in which country or city they are in. This lack of specific information is also a factor that makes police research difficult. Some girls escape from their traffickers before being forced into prostitution. They say that they overheard discussions among traffickers in which future prostitution work was discussed.

Case 6
Trafficking of a Chinese girl

A Chinese girl requested for political asylum. She claimed to have lost her parents and sister during an earthquake. After losing her family, she was recruited by traffickers who took her to Russia. While there, she was raped by one of the traffickers and detained in a hotel room for a long period of time. After that she was taken to the Netherlands in the trunk of a car. In the Netherlands, she managed to escape from the traffickers and requested for asylum. She was granted a residence permit for UAMs, but the court in Zwolle overruled this decision and decided that the girl should be granted a residence permit on humanitarian grounds on the basis of the trauma caused by the events. The court added that the very young age of the girl at the moment of the trafficking should be taken into account.

Source: sentence of the court in Zwolle, 1998

Girls request for asylum after they have managed to escape or after they have been thrown out onto the streets often because of becoming pregnant. According to social workers at centres for asylum seekers, a relatively large percentage of Chinese female asylum seeking UAMs become pregnant. The girls are often very vague about who the fathers of their babies are. Some respondents attributed these pregnancies to rumours within in the Chinese community that UAM girls are not

¹¹⁹ Venicz and Vanwesenbeeck (1998) *Aard en omvang van (gedwongen) prostitutie onder minderjarige (allochtone) meisjes*. NISSO: Utrecht, page 32,33.

¹²⁰ Ayotte (1999) *Separated children coming to Europe*. Save the Children, page 68, 69.

returned to China if they have one or, even better, two children, although these rumours are not correct. Others attributed the pregnancies to sexual abuse or prostitution on their way to or in the Netherlands. Most Chinese minors decide to keep their babies and live in special mother and child units.

Field workers dealing with the prostitution sector do not find Chinese prostitutes in the regular Dutch red light districts. Chinese prostitutes operate for example from Chinese barbers' shops in predominantly Chinese residential areas. Chinese girls also report to having worked in illegal Chinese brothels in private houses.

The girls report that they were kept in confinement in the houses where they were forced to work as prostitutes. Some did not leave the house until they managed to escape or were sent to another place. These girls frequently report physical and sexual violence.

Since none of the traffickers of these girls have been arrested so far, no facts are known about how they are organised. It is not clear whether the traffickers of minors are different from the ones trafficking adults.

Trends

Until the 'Dover incident', the police hardly investigated the situation of Chinese asylum seeking UAMs. The study by Venicz and Vanwesenbeeck¹²¹ reported that workers at asylum centres complained that most police authorities refuse to take action when Chinese minors disappear. Following the Dover incident, police investigations on the smuggling of Chinese migrants are being given higher priority. So far, this intensified attention on Chinese migrants has had no visible influence on the influx of Chinese minors in the UAM procedure.

According to experts on the Chinese community, the other members of this community think that at least parts of the stories the minors tell the Immigration Authorities are not true. However, workers at asylum centres are confronted with many pregnant and sometimes terrified girls exhibiting unsettling behaviour. These stories confirm that further research on Chinese asylum seeking UAMs is necessary.

c) Eastern European girls

In 1997, a report by the IRT Noordoost Nederland, a police organisation¹²² mentioned that the majority of cases of trafficking in the Netherlands concerns trafficking in women from Central and Eastern Europe. In 1999, Eastern European women and girls still accounted for the largest group of victims of trafficking. Of the 289 victims of trafficking reported to the Dutch Association against Trafficking in women (STV), 121 were from Eastern Europe¹²³. Incidentally (a few times a year), the police also find under-age Eastern European girls in brothels. Some of these girls reached the Netherlands on their own but the majority are trafficked.

The minor girls found working in prostitution in the Netherlands come from different Eastern European countries. In 1999, the largest groups of victims came from Russia, Ukraine and

¹²¹ Venicz and Vanwesenbeeck (1998) *Aard en omvang van (gedwongen) prostitutie onder minderjarige (allochtone) meisjes*. NISSO: Utrecht, page 33.

¹²² IRT-NON IRT NON en Internationaal Politie Instituut Twente (1997) *Mensenhandel vanuit Centraal en Oost Europa*. Hogeschool Enschede: Enschede, page 77.

¹²³ STV (1999) *Signalen en tendensen inzake vrouwenhandel 1999*.

Poland¹²⁴. In their research on victims of trafficking (not specifically minors) from Eastern Europe, Judith Vocks and Jan Nijboer¹²⁵ surveyed 72 women. Of this group, 3% were minors. Vocks and Nijboer found that most victims from Eastern Europe are young (75% of those in the sample were under the age of 23). Though their family backgrounds differed, it is noticeable that two thirds of the trafficked women surveyed by Vocks and Nijboer had a disturbed relationship with one or both parents.

The level of schooling also varied. In general, the younger women had less schooling. Women from the former USSR more often tend to have completed their education in comparison with women from the other Eastern European countries. The researchers explained that this was due to the fact that education is still free in most of the former USSR, in contrast with low levels of access to schooling in most Eastern European countries.

A considerable number of women had some experience of prostitution in their country of origin. The women with work experience in other sectors had mostly worked in low paid jobs. A large percentage of the women surveyed by Vocks and Nijboer had been living with their parents in their countries of origin.

Besides a small number of women who had been kidnapped, the most important push factor was the economic situation in the country of origin. The younger victims in particular mentioned that they hoped to pay for their further education by working as prostitutes. The search for adventure is also mentioned as a reason for co-operating with traffickers.

In a study by Judith Vocks and Jan Nijboer (1999) about victims of trafficking from Eastern and Central Europe, three major strategies of recruitment are mentioned :

1. A small number of women were kidnapped or, without their consent, sold to a trafficker.
2. A somewhat larger number of women were misled about the nature of the work they were going to do in the Netherlands. The traffickers told them stories about work as waitresses, cleaners, etc.
3. The majority of victims knew that they were going to work in prostitution but were exploited after arrival. They were promised large earnings but once in the Netherlands, had to pay a substantial amount of their earnings to the traffickers. They had to work under harsh conditions and their freedom of movement was often limited.

According to this study, the majority of the traffickers were acquaintances of the victims. The trafficked women mentioned knowing the traffickers as an important reason for trusting them. Some women were trafficked by family members.

¹²⁴ Idem.

¹²⁵ Vocks, Judith & Jan Nijboer (1999) *Land van belofte. Een onderzoek naar slachtoffers van vrouwenhandel uit Centraal en Oost Europa*. Rijksuniversiteit Groningen Vakgroep Strafrecht en Criminologie.

Case 7
Trafficking of a girl from Estonia

Both parents of a 15-year-old girl from Estonia were alcoholics. She was put in a children's home. She ran away and decided to take care of herself. She met and fell in love with a boy who had some connections with Russian criminal groups, with whom he got in trouble. Together the boy and girl fled to the Netherlands and requested for asylum. She became pregnant and the boy forced her to work as a prostitute, using the baby as a hostage. The boy started bringing more women to the Netherlands. The boy beat the girl a lot but she did not leave him, since she loved him and did not know where else to go. It took eight years before she stopped working as a prostitute and reporting her boyfriend to the police.

Source: social worker

Eastern European girls do not only work as prostitutes in the Netherlands but are often sent from one country to another. Germany and Greece are now often mentioned as countries in which these girls have worked before moving to the Netherlands. The number and nationalities of trafficked Eastern European women and girls in different red light districts changes rapidly. Women and minor girls from a given country tend to come and go in groups, usually in reaction to intensified police checks or (less) favourable local municipal policies. In this case, the asylum procedure is not used.

The level of force differs from trafficker to trafficker. Physical and sexual violence are reported frequently. Threats to family members still residing in the home country are mentioned frequently. The traffickers often operate in small flexible groups and the level of organisation varies. Most traffickers tend to traffic girls of their own nationality. The police research on trafficking in Eastern European women¹²⁶ reports that about a quarter of the traffickers of Eastern European women are Dutch. Dutch traffickers often have connections in the prostitution environment. The same study mentions that Dutch traffickers often use recruiters from the country of origin of the victims.

Trends

Eastern European women and girls are still the largest group of victims of trafficking in the Netherlands. Since preparations for the new prostitution legislation got underway, Eastern European women have been disappearing from the licensed brothels due to intensified police checks. Brothel owners who employ minor or adult illegal prostitutes face immediate closure. As a result, the former are more circumspect about allowing illegal prostitutes to work in their brothels. In street walking zones¹²⁷, more Eastern European women are to be found, since the police do not check papers in these areas. According to a research about the escort business in Amsterdam¹²⁸, (illegal) Eastern European girls are also to be found working in escort agencies. Social workers fear that it

¹²⁶ IRT NON en Internationaal Politie Instituut Twente (1997) *Mensenhandel vanuit Centraal en Oost Europa*.

Hogeschool Enschede: Enschede. Page 41-42.

¹²⁷ In the Netherlands special zones are constructed, often in isolated industrial areas, in which street prostitution is officially allowed. These zones are protected by the police and have a so-called 'living room' in which prostitutes can relax and seek social assistance if they want to.

¹²⁸ Klerks P. & P. Naber & J. van der Werf (2000) *Escort in Amsterdam. Een onderzoek naar aard en omvang van escortservices in de gemeente Amsterdam, in opdracht van de manager van het Wallengebied van de gemeente Amsterdam*. Eysink Smeets & Etman: Den Haag.

will be more difficult to find victims of trafficking if these operate in less easily accessible work places like escort agencies.

d) Moroccan girls

In 1997, the Utrecht police were able to arrest a trafficker who recruited girls of Moroccan descent to work for him as prostitutes¹²⁹. Moroccan fathers assisted the police in finding the traffickers. This arrest was one in a whole number of arrests by the Utrecht police in that year. Young girls working for their pimping boyfriends, also known as 'lover boys' in the Dutch media, have become a widespread phenomenon in the Dutch prostitution sector in recent years. The victims of pimps are of both Dutch and Moroccan descent. Although such girls are not unaccompanied minors, trafficking involving them is increasing and also affects countries with a common border with the Netherlands, e.g., Belgium and Germany, where the girls can be considered as unaccompanied minors.

Research carried out by the Utrecht police describes the recruitment process¹³⁰. The pimps approach girls at schools, near youth shelters and in discotheques or coffee shops. They pick out girls that are vulnerable to male attention and start courting them. When the girl falls in love, they cause problems with her parents for example by always taking her back home late. Respondents mentioned that pimps insist on having sex with the Moroccan girls in order to alienate them from their parents. Once this happens, the Moroccan girls are usually very afraid that someone might find out that they have lost their virginity. These problems mount until the girl runs away, the point at which the boy pushes the girl towards prostitution.

Although the victims come from different socio-economic backgrounds, in general, most come from problematic families, children's homes, etc. The push factors that make girls give in to the wishes of the traffickers are complex. "Pretty Woman", a project being implemented in Utrecht, where these girls are counselled, perceives this behaviour as a form of addiction to harmful relationships, as described by the American therapist Norwood¹³¹. A low level of self-esteem causes this behaviour and was corroborated by the accounts of most respondents working with the girls.

The majority of the girls working for pimps are 18 years of age or above. The recruitment process starts when the girls are still minors. The minor girls work in street walking zones, coffee shops or with clients recruited by the pimp. As soon as they become 18, many of the girls have to work in window brothels where earnings can be high. The girls are trafficked through the Netherlands and often Belgium and Germany as well. They work only for short periods at one place and often do not have proper housing. They sleep in hotels or at their work place. This mobility leads to a total lack of other social relations, which makes it even more difficult for the girls to leave the pimp.

Field workers report that pimps use extensive force to keep the girls working for them. "One girl ran off dressed only in a t-shirt and jogging pants after she had been beaten up again by her boyfriend. That is how she arrived at our shelter", says a social worker. As part of the recruitment process, girls are sometimes forced to have sex with others. Threats by pimps to inform the victims' families about their prostitution work and to beat up members of their families are also mentioned, especially among Moroccan girls.

¹²⁹ Verdachte kinderprostitutie in de cel na tips Marokkanen *Utrechts Nieuwsblad* 29-04-97.

¹³⁰ Marktscan (1997) *Gevangen in een droomwereld*.

¹³¹ Norwood (1985) *Women who love too much*.

Case 8
Trafficking by lover boys

B was born in Morocco and joined her father, who worked in the Netherlands, when she was 6 years old. At the age of 17, her parents decided to marry her to her cousin in Morocco. B did not want this and ran away with her boyfriend. Since they had no money, her boyfriend suggested that she could work in prostitution to make money for both of them. She started working in a little brothel. The owner did not ask for her passport. A week after her 18th birthday, she started working behind the window, wearing a wig, since she was afraid someone would recognize her. She feared being killed if her family ever found out what she was doing. At first she agreed with the work, but when she talked about stopping, her boyfriend started beating her.

Source: social worker

The traffickers are only slightly older than the girls they recruit. At the moment, most pimps are of Moroccan descent, although there are also those of Turkish, Antillean or Dutch descent¹³². The Utrecht police found that many pimps have a past record of petty crimes like theft or drug dealing. Pimping is a less risky and well-paid alternative, since it is apparently difficult to convict traffickers. Most traffickers operate alone or with some help from family members, and employ one or more girls. They co-operate occasionally with each other for example to retrieve a runaway girl.

Bouchakour¹³³ mentions another group of Moroccan victims in her study. The group consists of an unknown number of adult and minor Moroccan women brought to the Netherlands for marriage and forced into prostitution after arrival. The majority of these women are over 18. So far, no police investigations are being conducted on this phenomenon. These women work as prostitutes within the Moroccan community. Venicz and Vanwesenbeeck¹³⁴ also mention Moroccan girls working as escorts within the circuit of Moroccan drugs dealers.

Trends

The new generation of pimps, somewhat inappropriately known as 'lover boys', seem very successful in recruiting young girls. After different police investigations, only a few pimps were convicted. Others were acquitted of the charge of trafficking. The police have difficulties prosecuting the pimps since most girls withdraw their report of trafficking after receiving pressure from the pimp. In the window brothel areas especially, these so-called lover boys seem to take advantage of the disappearance of illegal migrant prostitutes who, since the new legislation on prostitution, are no longer allowed to work there¹³⁵.

¹³² Venicz & Vanwesenbeeck (1998) *Aard en omvang van (gedwongen) prostitutie onder minderjarige (allochtone) meisjes*. NISSO: Utrecht, page 32.

¹³³ Kaddour Bouchakour, Yasmin (1996) *Weglopen als vlucht naar een oase van vrijheid? Wat zouden verschillende instanties kunnen doen als eerste hulpverlening voor Marokkaanse meiden, weglousters en prostituees?* Amsterdam: scriptie voor Hogeschool The Netherlands.

¹³⁴ Venicz & Vanwesenbeeck (1998) *Aard en omvang van (gedwongen) prostitutie onder minderjarige (allochtone) meisjes*. NISSO: Utrecht.

¹³⁵ Venicz, Visser & Nencel 2000.

e) *Trafficking in boys*

Case 9 **Trafficking in boys**

In 1994 and 1995, the Rotterdam police were able to round up a network of traffickers in minor male prostitutes. The network was discovered when the police were tracing a young Polish boy who had disappeared. The traffickers operated out of two brothels for boys. Boys between 13 and 18 years old were recruited mainly in Poland and former East Germany. Friends that were already working for the traffickers recruited the minor boys. At first they only did massage. Gradually, they were manipulated into prostitution. Later they worked as escorts for male clients. One client used considerable force against a boy. Besides the traffickers, 26 of these boys' clients were prosecuted. The traffickers were convicted with prison sentences of between 4 and 6 years.

Source: De Bruyn 1996 & Hoogendoorn, 1999

Cases of trafficking in boys come to light only occasionally. One reason lies in the lack of insight into the world of male prostitution. Respondents stations admitted that the police in most cases lack a good understanding of the male prostitution environment. A large part of male prostitution takes place in bars, cafés and parks or via escort services. These are all places in which police checks are difficult.

According to George Todea, Co-ordinator of a project for Eastern European prostitutes at AMOC¹³⁶, the geographical position of the Netherlands could be one of the reasons why the trafficking of Eastern European boys is not rampant there. In countries bordering Eastern Europe, e.g., Italy and Germany, there are more known cases of trafficking in boys. Some of the Romanian boys that were trafficked to Germany are now working in the Netherlands in order to make money for themselves.

North African boys have been working in the Dutch prostitution sector since the 1980s. Besides boys who have recently immigrated or who have been travelling as illegal migrants through Europe for some time, the sons of Moroccan immigrants are also recruited. Boys from Eastern Europe entered the male prostitution sector in the Netherlands in the 1990s. An increasing number of mainly Latin American transvestites and transsexuals are working in the Dutch prostitution sector but are usually over 18.

Some of the Eastern European boys working in the prostitution sector in the Netherlands were recruited in their country of origin or in other countries. Budapest and Prague have been named as popular recruiting centres for Eastern European boys¹³⁷.

¹³⁶ AMOC started as a social work organisation providing assistance to German drug addicts. Nowadays the organisation works for different groups of non-Dutch nationals addicted to drugs or working in prostitution.

¹³⁷ Korf, D.J., T. Nabben & M. Schreuders (1996) *Roemeense trekvogels. Nieuwkomers in de jongensprostitutie* Thesis Publishers: Amsterdam.

Other boys started working in prostitution after arriving in the Netherlands. They were approached by clients or saw their peers making money through prostitution. Sometimes traffickers actively recruit the boys to work in escort services or clubs.

For migrant boys, economic reasons are the most important push factor. Eastern European boys are looking for a better life in Western Europe, but find that money is not so easily available for illegal migrants. Prostitution can be used as a survival strategy. Another push factor is the difficulties homosexuals encounter especially in Romania. In this country, homosexuality is forbidden and the police frequently arrest homosexuals. In Western Europe, these boys are looking for more freedom. The search for adventure is also mentioned as a push factor. Eastern European boys from different socio-economic backgrounds are found in the Dutch prostitution sector. A substantial number come from a difficult family background or have lived in a children's home¹³⁸.

Workers at AMOC, a project for the welfare of Eastern European boys, are yearly confronted with a small number of boys (one or two) from a rather closed network of men in which young boys are exchanged. The boys are recruited in places where young boys hang out, e.g., train stations or cafés. Usually, such a boy is taken home and provided for in exchange for sex. After a while, the boy is passed to another man in the network¹³⁹.

Force is used in the trafficking in boys but differs somewhat from the force used in the trafficking in women. In general, it can be said that boys are not as easily bullied as girls. Boys who are confronted with violence will not easily admit it. Emotional manipulation is used as well. In brothels for boys, the bosses sometimes use their authority to work on their new boys or play the fatherly figure in order to make the boys do things they rather would not.

Since it is less easy to say in which cases minor boys are trafficked, it is also not so easy to say who the traffickers are. Older male prostitutes the boys meet for example in Budapest recruit some of the boys. The closed circuit of Dutch males who take young boys into their homes for a while and then pass them on to friends is even more clandestine. Rumours of brothel owners recruiting young boys in Eastern Europe are persistent, but have so far not been confirmed by police investigations. Sugar daddies¹⁴⁰, i.e., men who provide boys with housing and food in exchange for sexual services, are often found. These men generally do not force the boys to have sex with them.

Trends

In the early 1990s, the young male prostitutes in the Netherlands were mainly Czech, Moldavian and Romanian. Nowadays the population is ethnically more diverse and consists of all kinds of Eastern European nationalities. Drugs are a growing problem among Eastern European male prostitutes. Some boys are paid in drugs. Drugs are also used by traffickers to comfort young prostitutes in the first period of their sex work and to make them do things they would not normally do.

¹³⁸ AMOC annual report 1999, page 44.

¹³⁹ *Idem*.

¹⁴⁰ See for example Bruyn, Brigitte de (1996) *Schemerigheid in bossen en bordelen. Jongensprostitutie in Nederland*. In: *Keerzijde* jaargang 10, nummer 2.

2.3.2 Child pornography

Child pornography is produced in a very closed world. Most court cases on child pornography in the Netherlands are related to the possession of and not the production of child pornography¹⁴¹. Producers of child pornography are occasionally caught. For the production of pornography, the producers recruit youngsters who are easy to manipulate, often because their home life is not very good. Occasionally, young people are especially imported for this purpose or recruited after arrival. Connections with the prostitution environment have also been found.

Case 10

Trafficking for child pornography and prostitution

In 1999, a brothel owner was convicted of the production of child pornography, sex with minors and inciting minors to prostitution. Another man, who worked as a driver in the escort service of the first man, recruited runaway and other homeless boys hanging out at railway stations. The boys were between 14 and 18 years old. Most were sons of Moroccan and Turkish immigrants, but there were Polish boys among them. The second man offered the boys well-paid work and took them to the brothel of the first man in Amsterdam. At the brothel, the boys were told that they had to firstly act in a pornographic film. They were sexually “tested” by the first man in a rather violent way. He did not use condoms during these contacts. The man also featured in the films that were made with the boys. In order to have enough new prostitutes, the boys were exchanged with other boys in a brothel in Rotterdam.

Source: Parool, 13-2-1999

2.3.3 Other forms of sexual exploitation

Sexual exploitation of unaccompanied minors by individuals takes place but hardly ever leads to police investigations. Most girls refuse to speak about it or do so only in very vague terms. In their study, Vanwesenbeeck and Venicz¹⁴² mention different cases of mainly African girls who were approached by Dutch men either just after their arrival in the Netherlands or while already living in a centre for asylum seekers. The men take these girls home and, in most cases, the girls refuse to say what happened. Vanwesenbeeck and Venicz quote a social worker as saying: “Just recently, I heard that one of the girls that had been in the house of such a man had delivered a baby. She had hidden her pregnancy from everyone. The child must have been conceived during the period she was living in the house of that man. She has always denied that anything had happened to her while in that house. Apparently she never felt safe enough to tell us.”¹⁴³ Other girls tell stories of being locked in houses and being abused by one or more men. Some mention that photos were taken.

¹⁴¹ Werkgroep Kinderporno en kinderprostitutie in Nederland (1998) *Kinderporno en kinderprostitutie in Nederland. De stand van zaken*. Childright en Transact: Utrecht.

¹⁴² Venicz and Vanwesenbeeck (1998) *Aard en omvang van (gedwongen) prostitutie onder minderjarige (allochtone) meisjes*. NISSO: Utrecht, page 35-36.

¹⁴³ Idem.

Case 11
Sexual abuse of an UAM

A girl from Sierra Leone was staying at an asylum centre for minors. One day she disappeared after a boy saw her step into the car of an unknown man. After three weeks, she was back at the centre. She told her mentor that the man in whose car she had entered had taken her to his home. He abused her several times and did not allow her to leave his house until one day she was able to escape. Her mentor at the centre asked her why had she stepped into the car of a man she did not know. She said that the man had called her by her name, so she had assumed that she knew him from the centre, and that that was the reason why she had agreed to step into his car. For her, all Dutch people looked alike. It appeared that just before approaching the girl, the man had asked one of the boys from the centre for the girl's name.

Source: Venicz & Vanwesenbeeck, 1998

Respondents working in centres for asylum seekers mentioned that men come near asylum centres to approach young boys and girls for sex. Men offering a lift to or from the asylum centres, usually located in isolated industrial areas far from the cities, occasionally use the opportunity to abuse or rape unaccompanied minors.

2.4 THE EXTENT OF TRAFFICKING IN MINORS

No hard statistics exist on the trafficking in minors. There are only indications of the extent of trafficking for sexual exploitation. According to an inventory of the number of court cases brought against traffickers in Dutch courts during the 1994-1999 period by Visser¹⁴⁴, out of the 377 cases of trafficking, 36 concerned trafficked minors. The nationality of these minors was not registered separately.

Research by NISSO on the prostitution of minor girls in the Netherlands¹⁴⁵ estimates the number of minor female prostitutes who come in contact with the police, youth care institutions or asylum seekers centres per year to be between 1 000 to 1 500. The researchers received more detailed information about 315 girls, of whom about one third were of Dutch descent, another one third of migrant descent, and the remaining third of girls who had recently come to the Netherlands. Though not all of these girls are necessarily forced into prostitution, the same research found that only 10% worked as prostitutes without being forced.

There are no estimates of the number of minors in male prostitution, let alone the number of trafficked boys. However, it is known that the age of male prostitutes is on average below that of girl prostitutes. There are hardly any male prostitutes over 25.

¹⁴⁴ Visser, Jan H. & Hetty Oomens (2000) *Prostitutie in Nederland in 1999. De nulmeting, een jaar voor de invoering van de wet die de opheffing van het algemene bordeelverbod regelt*. Amsterdam: Mr de Graafstichting, bijlage E p. 8

¹⁴⁵ Venicz and Vanwesenbeeck (1998) *Aard en omvang van (gedwongen) prostitutie onder minderjarige (allochtone) meisjes*. NISSO: Utrecht, page 17-25.

It is difficult to say whether the number of minors in the Dutch prostitution sector is rising. The Dutch organisation against trafficking (STV) sees a rise in the percentage of minor victims reported to them, but this could also be a sign of the growing awareness of this problem among people working with for example asylum seeking UAMs. Most of the cases of minors involved in prostitution that were reported to STV in 2000 concerned minor asylum seekers from West Africa or China.

Every year, more than 350 asylum seeking UAMs disappear. The majority are not found. The IND conducted research in 1996¹⁴⁶ into these cases of disappearance and found two main reasons:

- The first reason was illegal family reunification. The traffickers do not always take the minors to the same countries as their relatives. Since for asylum seekers who are still in the procedure family reunification is impossible, families are sometimes illegally reunited.
- Other minors disappeared because they went to another country.

It is unknown though, how many of the asylum seeking UAMs who disappear each year are trafficked.

No statistics or estimates are available on bonded labour.

¹⁴⁶ Miert, J.J. van (1996) *Bestemming onbekend, Achtergronden van de verdwijning van Alleenstaande Minderjarige Asielzoekers uit opvangcentra in Nederland*. IND Informatie en Analyse Centrum (INDIAC): Den Haag, page 13.

3. COMBATING TRAFFICKING IN MINORS

3.1 LEGISLATION AND NATIONAL POLICIES

During the last five years, the Dutch Parliament has on several occasions discussed trafficking in minors for sexual exploitation. This increased attention has led to an increasing call for research on this topic by the Dutch Government.

The “Nationaal Rapporteur Mensenhandel” (the national monitor on trafficking) will play an important role in future research activities. This project is a consequence of the international conference on Trafficking held in The Hague in 1997. The national monitor’s office was opened in September 2000 and will be monitoring trafficking in the Netherlands in the coming years. The monitor’s researchers will bring together all information available on the issue and also get insight into police findings and court cases. Trafficking in minors will be one of their topics. The reports of the Nationaal Rapporteur will in future give a more national overview of the magnitude of the problem. At the moment, national statistics are not available.

NGOs and international organisations are also increasingly conducting research on this issue. The overwhelming attention of researchers on the issue of trafficking in minors for sexual exploitation leads to a certain research fatigue among respondents, who are asked questions about the issue over and over again. It is conspicuous that trafficking for other purposes arouses no such furore and research on them does not exist. Policy-makers are also not dealing with the issue of trafficking.

In March 2000, the Dutch government published an action plan known as ‘Fighting sexual abuse of minors’¹⁴⁷. This action plan is the result of commitments made at the international conference on fighting sexual exploitation of minors in Stockholm in 1996. It combines research plans with more concrete plans such as improving the registration of trafficked minors (see also paragraph C.2) and intensifying prevention activities. The action plan also mentions amendments to the law in order to improve the fight against sexual abuse of minors. One amendment accompanies the statutory changes in the legislation on prostitution.

3.1.1 New legislation on prostitution

After 20 years of discussions, the Dutch parliament agreed to lift the ban on brothels on the first of October 2000. Since then, brothels can apply to their local municipality for an official license to operate. To be granted an official license, the brothel has to comply with a number of rules, e.g., an adequate level of hygiene and fire prevention measures. Another important rule is that brothels are not allowed to employ minor or illegal prostitutes. In most cases, if the police find a minor in the brothel, it is immediately closed. The legislation is meant to decriminalize prostitution by increasing the possibilities for control.

¹⁴⁷ Ministry of Justice (2000) Nationaal Actieplan Aanpak Seksueel misbruik van kinderen. Den Haag. National action plan against sexual abuse of children.

One of the aims of the statutory changes is to prevent minors from working in prostitution¹⁴⁸. This is why the parliament decided to prohibit sex between an adult client and a prostitute under 18. Before the 1st of October 2000, clients were not allowed to have sex with young people under 16. For commercial sexual relations, this age has now been raised to 18. In practice, clients of prostitutes are almost never prosecuted. It is therefore unclear what the concrete effect of this amendment will be on the situation of minor prostitutes.

A direct consequence of the new legislation on prostitution is the increased control of prostitution businesses concerning illegal and minor prostitutes. For a number of years, illegal prostitutes were tolerated in the Netherlands. As a result, about 50 to 60 % of the prostitutes in the Netherlands are mainly illegal immigrants¹⁴⁹. The ban on the employment of illegal and minor prostitutes will therefore have considerable consequences. The government believes that the checks will lead to the disappearance of brothels employing illegal and minor prostitutes but social workers fear that especially the most vulnerable groups of illegal and minor prostitutes will move into an illegal, and for social workers, less accessible prostitution circuit with worse work conditions and with a greater risk of abuse (because of middle men, etc.). There is some discussion as to whether this illegal circuit will really be able to absorb such a large amount of illegal prostitutes¹⁵⁰.

Informants working with prostitutes have made the observation that throughout the Netherlands, illegal prostitutes are disappearing from the visible forms of prostitution (window brothels, clubs, etc.) as a result of intensified police checks. Minor prostitutes have never been visibly present in the Dutch prostitution sector. They operate in more closed circuits or pretend to be adults (by using false passports, etc.).

The Amsterdam municipality started intensified checks of prostitution businesses in 1996. At first the illegal prostitutes disappeared almost completely. Other cities faced an increase of prostitutes because of the arrival of those who had been working in Amsterdam. After some months, some of the migrant prostitutes, among them Africans, returned to Amsterdam. The police found more false or look-alike passports. Rumours of illegal brothels and escort services absorbing the illegal prostitutes were persistent. Recent research among Amsterdam escort services¹⁵¹ confirms that the middle and lower level of escort services in Amsterdam employ illegal prostitutes. Minor prostitutes are believed to be working for these escort services, although this has not been proved. Checking escort services is difficult, since the prostitutes do not operate from the premises of the escort service.

3.1.2 New asylum laws

The police investigations that confirmed that traffickers abuse the regulations relating to unaccompanied minors led to discussions in the parliament on how to prevent this. At the same time, politicians called for a curtailment of the increasing number of UAMs requesting for asylum. As a result, the policy on UAMs requesting for asylum is being reconsidered.

¹⁴⁸ See: Savornin Lohman, drs P.M. de & drs. H.W. G. Remme & mr W.A. G. Hillenaar (1999) *Handboek lokaal prostitutiebeleid*. VNG uitgeverij: Den Haag, part 1 page 10.

¹⁴⁹ See for example Helm, Therese van der & Lucy van Mens (1999) *Mobiliteit in de Nederlandse prostitutie*. Een inventarisatie uitgevoerd in het kader van Europap 1998 -1999. Europap: Utrecht.

¹⁵⁰ See for example Venicz, Liesbeth & Jan Visser & Lorraine Nencel (2000) *Trends in prostitutie en beleid. De tweede rapportage van de Profijtstudie*. Mr de Graafstichting: Amsterdam, page 23.

¹⁵¹ Klerks P. & P. Naber & J. van der Werf (2000) *Escort in Amsterdam. Een onderzoek naar aard en omvang van escortservices in de gemeente Amsterdam, in opdracht van de manager van het Wallengebied van de gemeente Amsterdam*. Eysink Smeets & Etman: Den Haag.

According to the plans of the Ministry of Justice, the policy on asylum seeking UAMs will undergo substantial changes¹⁵². Asylum seeking UAMs over 15 years old when they enter the Netherlands will lose their residence permit at 18, at which point they will have to return to their country of origin. The new legislation will make it possible to return unaccompanied minors over 15 to their country of origin if they are considered able to take care of themselves. In that case, the requirement for adequate care being available in the country of origin will no longer be necessary. If the plans of the Ministry of Justice are pursued, UAMs over 15 years old will no longer go to regular schools. They will be entitled to special forms of vocational training that can be used in the country of origin. Organisations working with UAMs fear that this lack of future prospects will be detrimental to the mental health of the minors. It is also feared that minors turning 18 will be more vulnerable to traffickers, since they will lose access to these facilities. Asylum seeking UAMs looking for accommodation on turning 18 report that it is offered in exchange for sexual services.

Officially, older UAMs will have to return to their country of origin once 18, but in practice so far, this has happened to few aliens¹⁵³. This situation can make the UAMs more vulnerable to abuse, for example, by people offering them housing.

“Stichting Vast”, a project offering shelter to illegal migrant women, claims to know several cases of (young) women who ended up in prostitution after being denied asylum. It is therefore questionable whether limiting the possibilities of asylum for UAMs will lead to less abuse of the regulations by traffickers.

3.2 TRACING AND PROSECUTION OF TRAFFICKERS

Though the number of court cases against traffickers is rising¹⁵⁴, the tracing and prosecution of traffickers faces a number of impediments. Some of the impediments are organisational, while others are related to the nature of the crime.

3.2.1 Organisational impediments

Investigating cases of trafficking is a laborious and time-consuming exercise. As a result, many police authorities at regional level are not able to investigate all reports of trafficking. Until recently, the attention paid by the police to trafficking differed from region to region. This disparity was clearly visible in the differences in the number of court cases against trafficking found in the various regions¹⁵⁵. Half of all the court cases were found in the three larger cities of Amsterdam, Rotterdam and The Hague. In order to give a nationwide profile to investigations of cases of trafficking, trafficking for prostitution has been made a national priority of the police and judiciary.

Regional police authorities have autonomy over how they organise their activities. In 1999, a national police working group was established on prostitution and trafficking. The aims of this working group are: to harmonise the different local policies and activities, to increase the number of court cases brought against traffickers, to reduce the number of illegal and minor prostitutes

¹⁵² Ministry of Justice 2000, Beleidsnota alleenstaande minderjarige asielzoekers.

¹⁵³ See IND issues.

¹⁵⁴ From 77 cases in 1994 to 168 in 1998 as mentioned in: Visser, Jan H. & Hetty Oomens (2000) Prostitutie in Nederland in 1999. De nulmeting, een jaar voor de invoering van de wet die de opheffing van het algemene bordeelverbod regelt. Amsterdam: Mr de Graafstichting, page 3, Bijlage E.

¹⁵⁵ Idem.

working in the Dutch prostitution sector and to intensify co-operation between the different regional police authorities, since cases of trafficking tend to overlap regional police borders.

Also, there is a need to combine the knowledge that the different regional police authorities have on the issue. To prevent loss of information after an investigation is completed, a special unit (UMS) has been assigned the task of dealing with trafficking in Nigerian women and girls. Within the CRI, the Central Criminal Investigations Information Service, a special trafficking unit compiles information on trafficking and endeavours to improve investigations on the issue.

Trafficking is also a priority for the judiciary. As a result, every prosecution service has a public prosecutor who is responsible for trafficking investigations. The way in which this task is executed differs from region to region¹⁵⁶.

Another organisational problem consists of the differences in and sometimes lack of a proper registration of aliens. The different police authorities lack a uniform registration system. The national police registration system differs from that of the regional police authorities. There are also differences between the registration systems of regional police authorities. The national police working group on trafficking and prostitution is endeavouring to unify the registration systems of the different police authorities.

It is not only the police that have registration problems. When the first cases of missing UAMs came to light, it appeared impossible to obtain reliable data on how many minors had disappeared. Every reception centre had its own policy on how to deal with the matter. Nowadays, a uniform policy on how to deal with missing minors exists. The registration of missing asylum seeking UAMs has been taken over by the CRI, the Central Criminal Investigations Information Centre. Missing asylum seeking UAMs are now systematically reported to the local police station, who report the case to the national service of missing persons (VPS), which registers all missing persons in the Netherlands (about 20 000 a year). Missing persons are registered with a code indicating the urgency of the case. The reporting police decide on how urgent the individual case of a missing UAM is, which can lead to problems. Respondents indicated that the police and social workers do not always agree on the degree of urgency. Workers at asylum seekers centres sometimes feel that cases of missing asylum seeking UAMs are not taken seriously enough. Most missing asylum seeking UAMs are registered as not being urgent cases.

3.2.2 Other impediments

Besides organisational problems, one of the main difficulties encountered by the police in bringing traffickers to court is the problematic communication with the victims. Most victims are very afraid of the police and traffickers usually reinforce this fear by telling stories of their co-operation with the police. Fear of the traffickers and what they can do for example to the family of the victim in the country of origin, further complicates any open communication. Many victims tell incoherent or clearly untrue stories. In addition, many reports incriminating traffickers are withdrawn. This is very frustrating for police officers and can lead to a lessening of interest in dealing with cases of trafficking by the police. Another obstruction to investigating cases of trafficking is that victims tend to disappear after reporting cases of trafficking. Most West African girls especially disappear as soon as they are put in a shelter.

¹⁵⁶ Venicz, Liesbeth & Jan Visser & Lorraine Nencel (2000) *Trends in prostitutie en beleid. De tweede rapportage van de Profeitstudie*. Mr de Graafstichting: Amsterdam, page 24.

Some of the problems between victims and the police are caused by a difference of interests between the police and the victims. For the victims, reporting the trafficker can be extremely dangerous as only limited protection can be granted. Most victims of trafficking eventually have to return to their country of origin where the trafficker or his accomplices await them.

Case 12

Conflicting interests between the police and victims

During a routine check of window brothels, the police notice two African prostitutes trying to escape. The prostitutes are so scared that they jump out of a window and one of the girls breaks her ankle. After being arrested, the girls refuse to say more than their names and ages. Both claim to be minor. None of them wants to report trafficking though the police have the impression this must be the case. They put the girls in social detention at the police station for several days. Without the knowledge of the lawyer, the girls are transported to a hospital for a collarbone scan. This scan confirms that only one of the girls is minor. As a result, the adult one is deported. The other one stays in detention and eventually requests for asylum as a minor. None of the girls reports trafficking.

Source: lawyer and different newspaper reports

Trafficking is officially a “victim’s crime”, i.e., the interests of the victim have to be given priority and taken care of. According to social workers, the interests of the victims are sometimes secondary to the actual police investigation. Social workers and lawyers report that victims’ interests are not always taken into account. In some cases, it is difficult to convince the police to issue a victim with a provisional work permit for victims of trafficking. Victims are not taken seriously in all cases.

Another problem is that traffickers can operate more flexibly than the police. Most traffickers can quickly adapt their strategies to changing police policy or are able to operate across regional and international borders in a way that regional police authorities are not allowed to.

Trafficking for other purposes than sexual exploitation is not a priority and not systematically investigated.

3.3 CARE AND FUTURE PROSPECTS FOR THE VICTIMS

3.3.1 The Care Centres

The care for trafficked minors takes place in reception centres for asylum seekers and in shelters that provide assistance for trafficked women and girls. The STV, the Dutch Association against trafficking, has organised regional care networks for victims of trafficking. In these networks, lawyers, shelters and social work organisations co-operate to provide adequate assistance for victims of trafficking. A limited number of relief centres in the Netherlands take care of minor victims of trafficking¹⁵⁷. One such recently opened centre works exclusively with young female prostitutes (until the age of 21). This shelter provides for both victims of trafficking and girls wanting to stop working in prostitution.

¹⁵⁷ Names of the centres are known by the STV but, in order to protect the victims, cannot be published.

A number of impediments are encountered in the care of the victims. First of all, care is only provided for victims who report their trafficker and therefore, are entitled to the B17 regulation. If the victim is too scared to report the trafficker, she is not entitled to this care. The only way to evade this obstacle is to have victims apply for asylum. Apparently, this is happening more often.

An added problem of the B17 provision is that victims are provided with a temporary residence permit only if their report of trafficking leads to a police investigation. When the police do not investigate, for example because they do not have enough staff, the temporary residence permit is not granted.

Another problem is relative to adequate protection for the victims. Though victims are usually placed in shelters at secret addresses, the traffickers sometimes find them. A respondent mentioned that the level of danger for the victims can be misjudged. She mentioned the case of a girl from Eastern Europe who was taken out of a brothel by the police and placed in a shelter in the same town as the brothel. In the following weeks, the girl was followed and intimidated by her trafficker.

Like the police, social workers also mentioned communication problems with the victims. Chinese and the African girls especially are very difficult to communicate with. It is very hard for them to talk openly about their fears, expectations or problems. This makes it difficult to interpret for example the nervous attacks among the West African girls or the frequent pregnancies among Chinese girls.

Case 13

Difficult communication with victims

A 16-year-old Chinese girl lived in a reception centre. She went to the doctor because of abdominal pains. The doctor noticed she had a severe vaginal haemorrhage. The girl said that the haemorrhage was caused by an injury due to a fall on her bed frame. According to the doctor, a fall could not have possibly caused such an internal haemorrhage. For this type of haemorrhage, intense and painful forms of vaginal penetration must have been taken place. The girl insisted that it was only the fall that caused it, despite the efforts of the doctor, the interpreter and other workers to gain her confidence.

Source: worker in a reception centre

The Nigerian organisation NDMN uses Nigerian women to talk with girls found in prostitution. These women are said to accomplish more than Dutch social workers. For a number of years now, cultural mediators have been used for STD prevention and information campaigns among prostitutes. It might be useful to try improving communication between social workers and victims by using cultural mediators.

A relatively recent phenomenon in the care of minor victims of trafficking is the tendency to limit the freedom of movement of girls in order to prevent them from returning to prostitution. In recent years, a number of Nigerian girls have been placed in juvenile prisons. For Moroccan and Dutch

victims of “lover boys”, a special project¹⁵⁸ has been started in Utrecht. The project places both victims of lover boys and girls that they consider at risk of becoming victims, in juvenile prisons for a number of months. The imprisonment is meant to break the connection between the victim (to be) and the trafficker. Critics of the project claim that many months of juvenile prison stigmatise victims and can have a detrimental effect on the girls involved. Many researchers have mentioned the incarceration in juvenile prisons as one of the factors facilitating the so-called ‘drift into prostitution’¹⁵⁹. For migrant girls, it can undermine even further their already feeble confidence in the Dutch authorities. Though well intended, imprisonment of victims can be seen as a sign of impotence in protecting minors.

Another problem related to the adequacy of care for victims is the lack of future prospects. Residence permits on humanitarian grounds are hardly ever issued to victims of trafficking, even when the latter are minors. In one case¹⁶⁰ of a Chinese girl, who requested for asylum after being raped by her trafficker, the judge found her story so traumatic that she overruled the decision of the Immigration Authorities to deny the girl her request for asylum. The judge granted her a residence permit on humanitarian grounds. No comparable cases can be found.

3.3.2 Return

Most trafficked minors initially do not want to return to their country of origin mainly because of fear of the traffickers. In many countries of origin, the authorities cannot offer adequate protection from the traffickers. In other cases, the reaction of the authorities forms an impediment to the safe return of the victim. The Nigerian organisation NDMN has reported that a large number of Nigerian girls and women who were deported in the summer of 2000 were arrested on arrival in Nigeria by the Nigerian customs police. Each had to pay about \$US 3 000 to be set free.

Case 14

Problems with the authorities after returning to the country of origin

A Chinese teenager requested for asylum. She said that her family had died in a flood. A trafficker took her to Europe where he forced her into prostitution. When she became pregnant, the man left her at Schiphol Airport. The girl delivered the baby at the border prison in Amsterdam. Her request for asylum was denied and she was deported in September 2000. According to fellow passengers, the girl had to remain on the plane after arrival in China and no one has heard of her since. In China, a girl can be convicted for leaving the country without permission and for delivering a baby as an unmarried woman. Her social worker in the Netherlands expected her to be sentenced to imprisonment. As a result, her child will be taken from her and placed in an orphanage.

Source: NRC, 16-09-00

Another impediment to return is the lack of economic possibilities in the country of origin. Some of the victims still have debts that will be difficult to repay on income from work in the country of origin. As a result, some returnees choose to return to European prostitution in order to pay their

¹⁵⁸ The project is named Project 13.

¹⁵⁹ Vanwesenbeeck (1994) *Prostitutes' well-being and Risk*. Vu University Press, page 24-25.

¹⁶⁰ Court of Zwolle case number 97/5672 - 21 April 1998.

debts. Returning to the country of origin without money is also often seen as a disgrace, especially among West African girls.

Involuntary return of minors, mostly Eastern European, happens but not often¹⁶¹. “We had two girls from Bulgaria who just kept crying. They did not want to say a word about what had happened to them. In the end, they were returned to their family”, said a respondent to the police in a research report by Venicz and Vanwesenbeeck¹⁶².

Though the immigration authorities (IND) claim that minors in principle are escorted up to their country of origin, in none of the cases mentioned by other respondents was a minor escorted any further than the Dutch national airport. Monitoring of returned minors does not take place systematically. As a result, in most cases, it is not known what happens with a minor after being returned.

Case 15
Unmonitored return of a victim of trafficking

A Ukrainian victim of trafficking had been living for a number of months in a shelter after having reported her trafficker to the police. She decided to return to her country because she could not accept the lack of prospects and the lack of money while being surrounded by such affluence. She was taken to the airport by the police and put on the plane. No one accompanied her to her country of origin. Social workers from the shelter where she was living before tried to get in touch with her several times. They never managed to get her on the phone. They have never found out how she is doing since returning.

Source: a social worker

Workers at AMOC’s Eastern Europe desk have practical experience of the voluntary return of young male prostitutes who become tired of their lifestyle in the Netherlands¹⁶³. Involuntarily deported boys usually return to the Netherlands within a couple of days, while those who voluntarily return have tried to create a new life for themselves in their country of origin. AMOC co-operates with the IOM’s Assisted Return office in The Hague. The organisation has good contacts with NGOs in the countries of origin working to help the boys get started again. In some Eastern European countries, the project La Strada takes care of (some of the) returned victims.

¹⁶¹ See for example Morelli and Hoogveld 1999.

¹⁶² Venicz and Vanwesenbeeck (1998) *Aard en omvang van (gedwongen) prostitutie onder minderjarige (allochtone) meisjes*. NISSO: Utrecht.

¹⁶³ Stichting AMOC (2000) in: *Migratie Info*, a magazine from IOM Netherlands, year 6, number 3.

3.4 PREVENTION

The growing concern about the recruitment of young girls by pimps has led to the setting up of a number of prevention projects for female adolescents. The organisations 'Scharlaken Koord' in Amsterdam and 'Beauty and the Beast' in Utrecht give lessons in schools about the recruitment strategies of pimps. They also try to stimulate discussions on how much a girl should do for her boyfriend. Humanitas Rotterdam's prostitution prevention project has designed a comic strip about a girl who was forced by her boyfriend to have sex with another man. This strip is used in communicating with girls who are considered to be at risk of being recruited.

Another project in Utrecht, Pretty Woman, works in the psychological counselling of at risk girls using the methodology that Robin Norwood¹⁶⁴ developed in her book "Women who love too much". The methodology considers the relationship between the pimp and the girl as a form of addiction to harmful relationships.

Activities aimed at preventing the trafficking of minors from abroad are less developed. Different measures have been taken to prevent the disappearance of (mainly West African) asylum seeking UAMs. One of the measures was to speed up the procedure for guardianship. The procedure for official guardianship takes approximately three months. Initially, no organisation was responsible for taking action if an UAM disappeared a few days after requesting for asylum. To avoid these problems, asylum seeking UAMs considered at risk can now be provided with a provisional guardian within 24 hours. The organisations responsible for the care of asylum seeking UAMs have developed profiles of 'asylum seeking UAMs at risk'. Characteristics are for example: not unpacking after arriving at the centre, anxious behaviour and making phone calls shortly after arrival. These 'at risk asylum seeking UAMs' receive extra attention and extra information from the workers. Girls can also be transferred more quickly or placed in other more closed forms of care, as mentioned in the previous paragraph.

So far, only NGOs have been trying to develop or support prevention activities in the countries of origin. The most successful prevention project is the already mentioned NGO La Strada, operating in different Eastern European countries. The Nigerian organisation NDMN has recently contacted a local Nigerian NGO that will take care of returned victims. They will also attend to the victims at the airport in order to prevent abuse by the customs authorities.

The prevention activities of the Dutch government are limited to pre-boarding or gate checks in the sending countries and limiting the possibilities of the asylum procedure. Traffickers have reacted to these measures by changing their transport routes.

¹⁶⁴ Robin Norwood 1985 *Women who love too much*.

4. CONCLUSIONS AND RECOMMENDATIONS

4.1 CONCLUSIONS

Since 1996, trafficking in unaccompanied minors for sexual exploitation has become an important issue in Dutch society. It is conspicuous that trafficking for other purposes does not arouse that much attention though it may involve more minors.

Traffickers have in the past exploited the highly developed policy regarding unaccompanied minor asylum seekers in the Netherlands. Due to the intensified police attention to Nigerian minors seeking asylum, traffickers seem to have changed their strategies.

The policy relating to unaccompanied minor asylum seekers, including a special residence permit and special care facilities, offers minors more protection and future prospects than what the victims of trafficking who report their traffickers are provided with. This is why occasionally this procedure is also used for minor victims of trafficking. Due to the large increase in the number of unaccompanied minors applying for asylum and suspicions that adults abuse the procedure, the regulation is now under reconsideration. A new policy has been designed especially to provide older minors fewer rights and future prospects. This might render such minors more vulnerable to traffickers.

In the Dutch Criminal code, trafficking is exclusively defined in relation to prostitution. In the courts, other forms of trafficking can be fought on the basis of abduction or in relation to the smuggling of aliens. In practice, other forms of exploitation, other than prostitution, are hardly ever brought to court or investigated. Most of these other forms of exploitation seem to be closely connected with the smuggling of aliens. The growing restrictions on people from outside the EU to enter Europe are an important factor in the increased use of smugglers and the rising amounts of money that has to be paid to them. The latter tends to lead to debt bondage or bonded labour. A small number of Chinese traffickers use force to perform criminal activities e.g., extortion of money. Threats and violence are used to enforce payment or forced labour. Chinese minors are mentioned as victims most often.

While boys are mentioned as victims of bonded labour, girls are mentioned more often as victims of sexual exploitation. For a number of years now, the victims of trafficking for prostitution tend to come from certain countries.

1. Nigerian and other African girls are trafficked by Nigerian traffickers to the Netherlands for prostitution. These traffickers tend to broaden their area of recruitment and even extend it outside Nigerian national territory, despite recent convictions of traffickers. As a reaction to growing police attention, the traffickers seem to have changed their routes from directing girls to the asylum procedure for minors to entering over land via Eastern European countries.

2. Chinese girls continue to tell stories about periods of forced prostitution in Moscow and elsewhere. Though proof of their prostitution work in Europe has not been found so far, signs like fearful behaviour and frequent pregnancies require further research.

3. Eastern European women have for years formed the largest group of victims trafficked to the Netherlands for prostitution. Occasionally, minor girls are found among them. Intensified police checks as a result of the introduction of the new legislation on prostitution has meant that an increasing number of these women are now found in street walking zones and, presumably, also in less visible forms of prostitution like escort services. It is feared that victims of trafficking will become less accessible to social workers and tracing by the police will be more difficult.

4. An increasing number of girls of Dutch and Moroccan descent are being recruited and trafficked by a new generation of pimps. Victims of these pimps also work in neighbouring countries. These pimps seem to profit from the disappearance of illegal women from the regular prostitution circuit.

5. Cases of trafficking in boys come to light less often. This is partly because of the lack of knowledge of the male prostitution environment. Also, the border between forced prostitution and prostitution as a survival strategy is not always clear. A substantial number of male prostitutes come from North Africa and the Eastern European countries.

Trafficking for child pornography and other forms of sexual exploitation is occasionally found. The production of child pornography films takes place in a very closed world and is difficult to penetrate.

Though the trafficking of minors for sexual exploitation is definitely on the Dutch political agenda, the fight against this practice still suffers from a fair amount of impotence, partly due to the structure of trafficking. Traffickers usually operate in small flexible groups and are far more flexible than the police and the judiciary in adapting their strategies to changes in policy.

As a consequence of the new legislation on prostitution, which allows licensed brothels to operate officially, the control of prostitution businesses as regards the presence of illegal and minor prostitutes has increased. Some respondents fear that as a result, illegal and minor prostitutes will move into illegal prostitution circuits – that will be less accessible for social workers – with even worse working conditions and with a greater risk of abuse (by middle men, etc.).

As a result of the large increase in the number of asylum seeking UAMs, the policy on asylum seeking UAMs is being reconsidered. The planned changes will lead to a deterioration of the position of asylum seeking UAMs who are over 15, and who will have to return to their country of origin on becoming 18. This might render the UAMs more vulnerable to traffickers especially since most of the UAMs denied asylum are not actively returned, but disappear.

Trafficking is a national priority for the police and judiciary. Besides organisational problems such as the lack of a uniform registration system, the international and flexible nature of trafficking makes police investigations difficult.

The fight against trafficking and the care provided for the victims is obstructed by severe problems of communication with the victims. The unwillingness of victims to report their traffickers is partly caused by the lack of prospects that the Dutch legal system offers victims. The B17 procedure provides victims of trafficking with a temporary residence permit but eventually, the victims have to return to their country of origin where the local authorities are not always able to protect them from the traffickers.

Another problem is the way in which some of the police authorities deal with victims of trafficking. The interests of the victims are sometimes subordinated in favour of the police research.

The incapacity to prevent 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 for example in juvenile prisons.

The asylum procedure for unaccompanied minors and the entire care system accompanying it, seem to work as a safety net for minor victims of trafficking. It gives minor victims of trafficking more chances to obtain a residence permit and more facilities like schooling, compared with adult victims of trafficking. This will change after the asylum laws have been altered.

Involuntary return of unaccompanied minor takes place occasionally. In some cases, the returned victims encountered problems with the authorities in their country of origin. Neither the voluntary nor involuntary return of UAMs is monitored, making it difficult to find out what happens to them after their return.

Prevention activities are limited to the activities of Dutch NGOs.

4.2 RECOMMENDATIONS

The focus of attention on sexual exploitation should not be at the cost of the attention paid to other forms of exploitation. Both police and social work organisations should be more aware of the signs of bonded labour or debt bondage among UAMs. An inventory of these signs should be made in order to get a better insight into the extent and nature of these forms of exploitation. More attention should be paid to how minors can be adequately protected against these forms of exploitation.

Both social workers and the police should pay more attention to the situation of Chinese minors. More in-depth research is needed on motives and problems of this group.

Care for trafficked minors should not stop when a minor becomes 18. The situation of minors becoming 18 needs extra attention since this group is entitled to less care and facilities.

The impact of the amendments in the legislation on prostitution and the intensified police checks on the situation of (minor) victims of trafficking should be carefully monitored.

Abuse of the asylum procedure relating to UAMs should not lead to a reduction in the protection of and accessibility to the procedure, since this could render UAMs more vulnerable to traffickers. The effect on the well-being on older minors of the absence of future prospects to be provided for in the new legislations on asylum seeking UAMs should be carefully monitored.

Communication between the police and victims and between care institutions and victims needs to be improved. More information between all parties and the use of peers or cultural mediators, as is done in the STD prevention project, could improve this situation.

The future prospects of victims of trafficking need to be improved. Trafficking should form grounds for granting residence permits to minors. Experiencing trafficking, especially at such a young age, is so traumatic that granting a permanent residence permit on humanitarian grounds should be

considered. Better prospects for the future could also lead to more trust in and co-operation with the police.

Victims who decide to return to their country of origin should be provided with more facilities.

Structural monitoring of the situation of returned victims of trafficking is necessary. Escorting the minor to the airport is not enough.

The Dutch government and NGOs should invest in building up contacts with NGOs in the countries of origin to develop prevention activities and to take care of returned victims.

Greater co-ordination of national and international research is necessary to avoid duplication and research fatigue among respondents.

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RECOMMENDATIONS

A common definition of the term “unaccompanied minors” in the EU

1. There is a need for a common definition of unaccompanied minors in the EU Member States “as children under 18 years of age outside their country of origin and without parents or guardians to care for and protect them” - a definition inspired by the Separated Children in Europe Programme’s (SCEP)¹⁶⁵. EU Member States would have to ensure that the needs and rights of unaccompanied minors are fully recognised; they should abide by international conventions and guidelines, such as the Convention of the Rights of the Child, without any amendment that would endanger the well-being and safety of minors while the conventions and guidelines are integrated into the national legislation. The Convention on the Rights of the Child should not be restricted by laws or procedures which regulate third country nationals or any other national law in the countries of destination.

A common definition of “trafficking in human beings”

2. EU Member States and international community should ratify the 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*”.

Information Gathering and Exchange on Trafficking in Minors

There is a need for:

3. Improving statistical data by harmonising national registration systems - collection, registration according to age, sex ratio, nationality, etc.

4. More information and research on the:

- Reasons for flight and migration, as well as on the routes and mechanisms used for migration, with particular attention to the emergence of new countries or origin and destination;
- Multi-sited research on specific nationals and target groups of minors, such as Chinese asylum-seekers, Albanian and Moroccan irregular migrants, male prostitution, so as to better understanding the specificity of these groups and devise durable solutions;
- Different forms of labour exploitation of minors in the informal sector (i.e., forms of organisation, sectors, etc);
- Comparable data and exchange of information among EU Member States on trends, best practices and durable solutions;

¹⁶⁵ Sandy RUXTON, *Separated Children Seeking Asylum in Europe: A Programme for Action*, Save the Children and UNHCR, 2000, p.5.

- Cases of disappearance of minors in order to identify possible reasons and trends;
- Psycho-social trauma of trafficking and smuggling of unaccompanied minors in order to address the lack of information and responses to mental health issues, particularly psychosomatic symptoms.

5. More co-operation between public authorities and social services (NGOs), at the local, national, and international level with the EU and the countries of origin. The establishment of specific contact points within the different institutions or organisations dealing with minors could improve the capacity to deal with trafficking in minors, since targeted information would be channelled directly to the appropriate services for action.

6. Countries of origin, in particular Candidate and Association countries, to be involved in EC initiatives on combating trafficking and other related issues, such as the STOP and DAPHNE Programmes, in order to reinforce and improve the rapid transfer of information and expertise related to trafficking in human beings, between all countries involved.

7. Increase exchange of information, expertise and best practices between persons involved in counter trafficking activities (i.e. law enforcement and border officers/guards, immigration and foreign affairs personnel, social services and NGOs) through technical co-operation programmes and exchange visits in order to strengthen their capacity to deal with trafficking in minors and foster co-operation between the different services, regions and countries.

8. Increase co-operation via training sessions and exchange of information between embassy officials and local authorities in countries of destination.

9. Information exchange pertaining to law enforcement issues in close co-operation with Europol and Interpol.

10. Strengthening co-operation and exchange of information between interlocutors in countries of origin, transit and destination working on counter trafficking such as, NGOs, IGOs and UN organisations working on children's issues, particularly child labour (such as UNICEF and the ILO). The capacity and resources of NGOs and IGOs working with victims of trafficking in countries of origin, transit and destination should be strengthened/enhanced.

Prevention, Assistance and Protection in the Countries of Origin

11. Support funding for pilot projects aimed at strengthening organisations working with minors, thus promoting activities such as sports, recreation, vocational training and income generating opportunities which would enable minors to develop a positive sense of community, identity and self-esteem as well as their social and economic development. Reconstruction of youth social systems is imperative in order to develop a grassroots network of service providers who would assist the minors, thus decreasing the risk of the most vulnerable cases being recruited by criminal networks. Support and facilitate the development and implementation of economic projects aimed at small-scale income-generating activities for young people while directly involving family members, particularly parents or guardians.

12. Launch information campaigns in the countries of origin in order to raise awareness on the issues related to the risks of trafficking in unaccompanied minors for sexual exploitation or bonded/forced labour and slave-like practices. These campaigns should target young people,

families (in particular parents and guardians, since in most cases they are the main instigators of this form of migration), NGOs (such as youth and women's organisations) governmental institutions (schools, law enforcement agencies, etc.) and journalists.

13. Increase the level of awareness of the target group regarding a realistic migration project via information dissemination so as to combat the “myths and misconceptions” spread by traffickers, returnees and the Western media. Involvement of returnees in the information dissemination process as a form of income-generating activity should also be considered whenever feasible.

14. Raising/strengthening the capacity of the public authorities in countries of origin to deal with this target group upon return, particularly those in the educational and social service sectors.

Prevention, Assistance and Protection in the Countries of Destination

15. Facilitate family reunification in the EU Member States so as to avoid illegal family reunification and thus diminish the vulnerability of the minors to the trafficking and smuggling networks.

16. Launch an information campaign with regard to the general public in the countries of destination, in order to raise awareness on trafficking in minors for the purpose of sexual and other forms of exploitation.

17. Rapid response, such as rapid information exchange between the relevant services in the countries of origin, transit and destination, is necessary for combating trafficking in human beings.

18. Raise awareness among UAMs regarding the possibilities as to where to get help from the very beginning, while using cultural mediators (volunteers from the country of origin).

19. Encourage multi-ethnic service providers working in existing structures, thus facilitating/improving interpretation, cultural understanding and mediation.

20. Improve and strengthen the skills of personnel responsible for dealing with minors, such as the border police, interviewers working within the asylum process, social workers, lawyers, among others, could increase the overall possibility to detect cases of trafficking and exploitation at an earlier stage.

21. More action is needed in order to prevent disappearance from the care facilities. Priority should be given by the police to investigating cases where UAMs disappear.

22. Improve and strengthen reception facilities – in-depth analysis of the needs of the child in order to curtail the disappearance of minors in social facilities is needed.

23. Harmonisation of services within the host countries and among EU Member States is necessary, not only to avoid “asylum or protection shopping”, but also to ensure the well-being of the children.

24. Reception conditions in EU Member States should respond to the needs of the minors. Therefore, smaller centres or private housing schemes should be implemented instead of lodging the minors in large centres without the appropriate facilities. Small centres or separate areas for minors within large centres could provide more individualised assistance and support for the minor, while

more closely monitoring their movements, thus avoiding the need to restrict their freedom of movement.

25. Appropriate guardianship of minors must be established in order to diminish the risk of the child entering or remaining within the criminal networks . Within a workable notion of guardianship, the number of children per guardian should be restricted as a way of ensuring a relationship of trust, while promoting the general well-being of the child.

26. Assessment of cases of unaccompanied minors in countries of destination must be dealt with within a reasonable length of time so as to determine the appropriate procedure to follow. This would assist in creating a distinction between minors in need of protection under the 1951 Convention on Refugees and those who fall under other categories.

27. Detention of minors should be avoided.

28. EU Member States should provide assistance and protection to victims of trafficking, while granting them temporary or permanent stay in the country of destination. This would also imply the support of local NGOs to work with victims. Special consideration should be well thought out regarding a residence permit for minors who are victims of trafficking, in which case their declaration should suffice for the granting of the permission on humanitarian grounds, as opposed to the permission being granted in exchange for collaboration in a judicial matter involving a criminal investigation. The age factor combined with the fear of testifying in court, as well as retribution against the minors themselves and their families should be strong considerations for such special request.

29. The right to education for each minor according to his/her specific needs, should be implemented in accordance with the Convention on the Rights of the Child. Although the benefits of this measure are broad, with regard to counter-trafficking, this could help improve the prospects for the minor in terms of different options for the present and future, while helping to monitor the movements of the child.

30. Implement appropriate voluntary return and reintegration programmes targeting minors in accordance with the CRC and UNHCR guidelines as part of a durable solution, thus responding to the needs of the child. Monitoring and follow up of return cases is of crucial importance in order to create the necessary sustainability of the measure, as well as to avoid re-trafficking. In addition, whenever possible, return programmes must be combined with pilot projects on training or income-generating activities while involving the minors' family.

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