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Fight against Crime Programme European
Commission – Directorate – General Home Affairs

IMPACT

Improving & Monitoring Protection Systems
Against Child Trafficking and Exploitation

TRANSNATIONAL ANALYSIS



DEFENCE FOR CHILDREN
International-Italia



CARDET
CENTRE FOR THE DEVELOPMENT OF RESEARCH
& DEVELOPMENT IN EDUCATIONAL TECHNOLOGY



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OF AND FIGHT AGAINST CRIME PROGRAMME EUROPEAN
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FEBRUARY 2014

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This report was written by Daja Wenke, Research Coordinator, in close cooperation and consultation with Pippo Costella, Research Adviser, and the IMPACT national teams. It builds significantly on the national IMPACT reports and integrates parts of the texts developed by the research teams in Cyprus, Greece, Italy and Portugal. The national teams for IMPACT were composed as follows:

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TABLE OF CONTENTS

Foreword	6
1. Executive Summary	9
2. The IMPACT approach and methodology	14
a. Child trafficking in Europe: Revisiting existing knowledge and evidence as a departing point for IMPACT	14
b. Vulnerability to exploitation and trafficking: Understanding the concept from an ecological perspective	18
c. The IMPACT approach: A holistic perspective with the child at the centre	21
d. Research methodology.....	24
3. The Southern European perspective: The socio-economic and political context in times of crisis	29
a. The impact of the financial and economic crisis on children	30
b. The Southern European countries as migration entry points	31
4. Child trafficking: Limitations of current national definitions	37
• <i>Child victims of trafficking: Official data</i>	
5. From intention to implementation: The capability of public administrations to translate child rights standards into policy and practice	43
a. Opportunities: The status of the CRC and its monitoring mechanisms	43
• <i>The status of the CRC as an integral part of national law</i>	
• <i>Child rights institutions and monitoring mechanisms</i>	
b. The challenge of promoting inclusion: Fragmentation, categorisation and discrimination	46
• <i>Interrelatedness of rights as the basis for a holistic approach</i>	
• <i>Prevention of discrimination</i>	
• <i>Health care</i>	
• <i>Education</i>	
• <i>Guardianship</i>	
• <i>Work and employment</i>	
c. National child protection systems: The struggle to deliver services that are appropriate and effective	65
• <i>Referral of children at risk and child victims</i>	
• <i>Integrated and specialised services</i>	
• <i>Foster care</i>	
• <i>Life projects for children in care</i>	
• <i>Prevention measures</i>	

- *Standard procedures*
- *The best interests of the child*
- *The right of the child to be heard*
- d. The challenge of being effective: Planning and coordination of child rights policy81
 - *The challenges resulting from decentralisation*
 - *Leading institutions and coordination mechanisms*
 - *Weak data base*
- e. The challenge of achieving compliance:
 - Infringements against the rights of non-national children90
 - *Immigration detention under inappropriate conditions*
 - *Violence at the hands of state officials*
 - *Refusal of entry, expulsions and deportations*
- 6. Conclusions and recommendations94**
 - *The need to strengthen national child protection systems*
 - *Promoting inclusion and services by valuing diversities*
 - *Promoting coherence between child protection policies and immigration regime*
 - *Promoting efficiency by investing in prevention*
 - *Integrating national child protection systems into broader strategies for the implementation of the Convention*
 - *The programmatic character of the CRC*
 - *Investing in children in times of crisis*
- 7. Recommendations 103**
- 8. Glossary and acronyms 106**
- 9. Acronyms 109**
- 10. Bibliography 109**

FOREWORD

by **Marta Santos Pais**

Special Representative of the United Nations
Secretary-General on Violence against Children

The right to grow up in dignity and free from violence in all its forms, including exploitation and trafficking, is inherent to children's inalienable human rights. The Convention on the Rights of the Child (CRC) recognizes children's right to protection from violence and sets minimum standards for children to lead dignified and happy lives, in an environment where violence has no place.

Recognizing that violence happens in the multiple settings where children live, including in the home, in schools, the community, care and justice institutions, as well as in situations of migration, the international community has committed to safeguard the right to protection for each and every child, everywhere and at all times. This commitment has been reiterated by governments in Europe. Individually and collectively, as members of the European Union and the Council of Europe, European governments have adopted new standards, enacted national laws and policies and reinforced cross border cooperation to prevent and address violence against children to safeguard them from trafficking and exploitation.

Child exploitation and trafficking is a global phenomenon. It is often associated with poverty and inequality and it seriously hampers the fulfillment of children's rights. As the IMPACT study notes, this child rights violation also persists in Europe, despite the body of international, regional and national legal instruments adopted across the region to prohibit the practice and assist child victims.

The 2013 Global Survey on Violence Against Children, conducted by my Office to assess progress in preventing and eliminating violence since the groundbreaking 2006 UN Study on Violence against Children, acknowledges that governments around the world have promoted significant normative, policy and institutional developments to advance national implementation of child protection measures.

The Global Survey notes, however, that progress has been too slow, too uneven and too fragmented to make a genuine breakthrough in the protection of children from all forms of violence. As the Survey stresses, child trafficking has been on the increase and two in every three child victims are girls. Within and across borders, children are trafficked for different purposes, including criminal activities, sexual exploitation, labour, begging or illegal adoption. Child victims are subject to different forms of violence, including abduction and sexual violence. And although many countries have legislation to combat human trafficking, the number of convictions remains low and impunity prevails.

The IMPACT study presents findings on child exploitation and trafficking specifically in the European context. Despite the significant measures undertaken in the region, important challenges persist. These include a fragmented approach to policy, planning and implementation, weak coordination across government departments and between central and local authorities, gaps between legal commitments and their enforcement in practice, and overall an insufficient investment in violence prevention.

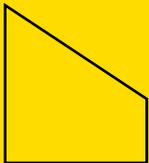
The IMPACT study reminds us of the importance of consolidating progress made so far. But it calls in addition for strong investment in prevention and special support to the most vulnerable and marginalized children, who are at a higher risk of violence, abuse and exploitation. For these children, targeted policies

TABLE OF CONTENT

and interventions will be of essence to safeguard their protection, and promote their empowerment and social inclusion. This will help to prevent future incidents of trafficking and strengthen the social and economic development of European states.

The cost of inaction for children and for nations' social progress is too high to be ignored. In this year's commemoration of the twenty-fifth anniversary of the Convention on the Rights of the Child, the safeguarding of girls and boys from trafficking and exploitation gains an ever greater relevance. It is time to translate this human rights imperative into tangible action as an integral dimension of the development of all nations.

New York, 22 January 2014



EXECUTIVE SUMMARY

The IMPACT project – Improving Monitoring and Protection Systems Against Child Trafficking and Exploitation – was implemented through a partnership cooperation of four non-governmental organisations in Cyprus, Greece, Italy and Portugal. It was conceived as part of a longer-term strategy for studying and informing the development of innovative approaches to prevent the exploitation of children, from a perspective focused on the rights and well-being of the child.

IMPACT builds on a method developed for GATE¹ ('Guardians Against Child Trafficking and Exploitation') and informs RESILAND² ('Participation, capacities and resilience of children on the move against trafficking and exploitation'). These projects are implemented in continuity by a core group of partner organisations with funding from the Prevention of and Fight Against Crime (ISEC) Programme of the European Commission – Directorate-General Home Affairs.³

There is a significant body of research on child exploitation and trafficking in Europe, including in the four countries studied by IMPACT. The study process developed for IMPACT builds upon and complements this knowledge base and reflects upon it from a specific angle. The focus is shifted from the situation analysis of child trafficking and a review of anti-trafficking responses to an understanding of the structural factors that contribute to creating an environment in which the exploitation of children is made possible.

In the IMPACT countries and throughout Europe, national governments have developed specific anti-trafficking responses, including targeted laws, policies and institutions. In the short-term, these measures have shown success by achieving the identification and assistance of individual victims and, in some cases, the successful prosecution of perpetrators. In the longer term, the struggle to reduce child trafficking continues unabated. Policy makers and practitioners continue struggling to develop methods for the identification of child victims and children at risk, they continue struggling to make children gain trust in national authorities, to see them accept assistance and testify against perpetrators, and they continue facing myriads of dilemmas and unresolved controversial issues.

There is sufficient evidence to identify the shortcomings of anti-trafficking responses as they are currently planned and implemented in Europe. Research reports keep reiterating findings that point to the weak capability of governments to intercept the disempowering cycle of vulnerability, exploitation and trafficking. This evidence is however not yet capitalised on to guide an effective strategy for change.

Reforms are pursued mainly in terms of law reform, creating institutions, defining mandates and offering support services. Yet, there are concerns that these reforms continue lagging behind the dynamics of

1 See: GATE (2011), Guardians Against Child Trafficking and Exploitation, available at: <http://gate-eu.org/>.

2 EC-funded project, 2013-2015. See: RESILAND - Participation, Capacities and Resilience of Children on the Move Against Trafficking and Exploitation, available at: www.resiland.org.

3 See: European Commission, Directorate-General Home Affairs, Prevention of and Fight Against Crime (ISEC), available at: http://ec.europa.eu/dgs/home-affairs/financing/fundings/security-and-safeguarding-liberties/prevention-of-and-fight-against-crime/index_en.htm (accessed December 2013).

child exploitation and achieve only marginal success. Innovative approaches embracing the lessons learned are rare. The underlying structural factors that create vulnerability to exploitation and trafficking are well known but little progress is seen in redressing them in an effective and sustainable way.

Addressing structural vulnerabilities offers however invaluable opportunities for prevention. It would be cost-efficient to invest in longer-term strategies that prevent exploitation and scale up the protection and empowerment of children at risk. Reflecting about a new perspective on prevention is not only timely in the times of the financial and economic crisis in Europe, it is also a human rights imperative.

Against this background, IMPACT proposes to re-focus the attention of the anti-trafficking debate. From measuring progress in law reform, action plans and programmes, specialised shelters, victims assisted, and successful prosecutions, the proposal is to move towards measuring also the capability of the public administrations to implement their national laws and policies into practice. Methods and approaches are needed to measure not only the capability of administrations to implement but also the progress they make in advancing their capability in this regard.

IMPACT builds on the assumption that strengthening the implementation of the UN Convention on the Rights of the Child (*hereafter CRC or the Convention*) into practice will contribute to reducing risks of exploitation and trafficking. There are currently no empirical studies to prove the direct causality between a more effective implementation of the CRC and a reduced prevalence of child exploitation and trafficking. Nevertheless, an overwhelming body of circumstantial evidence indicates that children who are exposed to exploitation have often previously experienced multiple infringements against their rights. Based on this evidence, the hypothesis is that children are better protected from exploitation when their rights to a safe and healthy development are safeguarded in practice, in line with international standards.

In order to gather evidence and test out the guiding hypothesis of IMPACT, the project was rolled-out as a multi-step study process in the four IMPACT countries. Each partner organisation carried out a national study guided by a common research protocol. The national studies combined a desk review of relevant literature, laws and policies with primary data collection through key informant interviews. National and transnational consultations were held with representatives from national and local authorities, social workers and service providers, anti-trafficking institutions, representatives from independent institutions, NGOs and other experts. The consultations offered a platform at which the IMPACT approach was presented and discussed. The participants informed the national and transnational research process with their contributions, strongly encouraging the IMPACT approach.

Each country team presented the findings and analysis that resulted from this process in a national IMPACT report.⁴ These reports review national laws, policies and practice in a wide range of child rights sectors. The analysis focused on the capability of the public administrations to plan and implement child rights policy in a way that is inclusive, appropriate, effective and compliant with international standards. The national reports pinpoint structural, administrative, budgetary and practical challenges of implementation. These challenges, paired with elements of weak governance, fragility, and the harmful impact of the financial and economic crisis – identified to varying degrees in the four countries – have implications for the risks of children to be exposed to exploitation and trafficking.

The national reports provide the basis upon which the IMPACT transnational analysis, as presented in this report, was developed. The transnational analysis assesses, through a review of selected examples from each of the countries, if and how the national administrations are capable to implement the

⁴ The national IMPACT reports are available at: www.impact-eu.org.



Convention and other relevant international and regional standards in a way that prevents exploitation and trafficking, protects and empowers children at risk and child victims. The report is structured as follows:

Chapter II introduces the background of the IMPACT project, including the research methodology and a critical review of existing knowledge and evidence on child trafficking in Europe, which served as the departing point for IMPACT. An essential foundation for the IMPACT approach is a contextual and ecological understanding of 'vulnerability' to exploitation and trafficking. Vulnerability is understood to be determined by a complex interaction of risk and resilience. The concept of 'structural vulnerability' is introduced as a guiding concept for the analysis.

Chapter III provides a brief overview of the current socio-economic situation in the Southern European countries studied by IMPACT. It discusses the harmful effects of the financial and economic crisis on children. It notes that increasing rates of poverty, unemployment and precarious working situations are considered to have implications for the risk of exploitation and trafficking. The chapter revisits the common perception of the Southern European countries as entry points for migrants arriving across the Mediterranean Sea. Putting the perceived 'emergency' situation of incoming migrants into a broader European perspective, it notes that the number of asylum seekers registered within the four countries remains significantly below the numbers reported from many Central and Northern European countries.

In Chapter IV, a comparative discussion of the child trafficking concept, as defined by the national criminal laws in the four countries, leads to the observation that child trafficking has different meanings in the countries. Due to the challenges of reaching conceptual clarity and aligning the national definitions with international standards, the value of the concept for the identification of victims might be biased in some countries. A review of official data on the number of victims identified in each country suggests that the national anti-trafficking responses cater to a rather small target group.

Chapter V assesses the structural opportunities and challenges related to the implementation of the Convention in the four countries. It aims to understand the implications of these opportunities and challenges for the risk of exploitation and trafficking. Opportunities are clearly identified by the strong status of the CRC in each of the IMPACT countries and the presence of national human rights structures mandated to monitor the implementation of the CRC as well as reporting and complaints mechanisms for children.

The Chapter applies the 'IMPACT variables' to analyse how the public administrations are implementing child rights policy into practice, in a way that is *inclusive*, *appropriate*, *effective* and compliant with international standards. It engages in a critical discussion of the 'categorisation approach' in child rights policy. It finds that policies in the sectors of health care, education, guardianship and employment are, to varying degrees, rooted in *inclusive laws* but that the way they are being implemented in practice results in different outcomes for different groups of children. The discussion evidences that in some instances, a child's status determines the type of services and entitlements that a boy or a girl has access to. Although anti-discrimination laws have been enacted in all four countries, some groups of children are affected by discrimination, particularly so children belonging to the Roma communities. In consequence, there are children who remain excluded from essential services related to health, education and guardianship, and some are deprived of opportunities to work and to gain an income.

The chapter proceeds to analyse the capacity of national child protection systems to deliver services that are *appropriate* and *effective*. The review of national child protection policies and their implementation into practice identified a strong need in some countries to develop standardised mecha-



nisms for the identification and referral of children at risk, for conducting individual case and needs assessments, and for the determination of the best interests of the child, giving due consideration to the views of the child. Whereas important experience is being made in Portugal with developing life projects for children in care, this longer-term planning perspective is less pronounced in the protection and reception systems in the other countries. In some cases and contexts, children appear to be mainly 'administered' as cases, and limited attention is given to their past experiences and their aspirations for the future.

The analysis reveals significant challenges related to the *effectiveness* of the public administrations. Little attention is given to connecting policies and strategies effectively across the various sectors involved in child rights policy. The weakness or absence of coordination mechanisms and strategic planning was identified as a challenge across all four countries. In addition, the decentralisation of public administrations bears as much risk for ineffective policy making as the weak communication between policy makers at the central levels, the officials and practitioners operating locally, and the children and communities concerned. This communication channel would however be essential to share information, to enable an exchange of knowledge and experience, and to ensure that feedback and lessons learned from the local levels, as well as children's views, inspire national policy reform. Overall, it remains a challenge to achieve coherence. This applies to coherence between different sectors involved in child rights policy as well as the coherence between the standards afforded by legal obligations and political commitments, the scope of action available for officials and professionals locally as well as the living situations that children are facing in practice.

In addition to these structural challenges, this report notes also evidence of infringements and violations against children's rights, especially from Greece and with some examples reported from Italy. These instances are further undermining the impact of policies aimed at reducing exploitation and trafficking and protecting child victims and children at risk. They present the most urgent call for action, as they stand in stark contrast to European standards and values of human rights and the rule of law.

Chapter VI concludes from the discussion and presents reflections and recommendations for further action in law, policy and practice. Strengthening the capability of the public administrations to implement child rights policy into practice is considered a key strategy for reducing the risk of exploitation, enhancing children's resilience and offering stronger protection from exploitation and trafficking. This approach shall be considered complementary to the traditional anti-trafficking responses, proposing strong partnerships, cooperation and coordination of all the relevant sectors and actors involved. The promotion of human rights standards and their implementation into practice is considered the foundation on which anti-trafficking responses can lead to more sustainable results. It provides an opportunity to leverage the impact of specific anti-trafficking measures and to strengthen primary prevention. It is thereby expected to render the precious resources invested in this field more effective.

The observations made by the IMPACT national and transnational reports are by no means new to the public debate. Challenges of implementation keep being identified in the reporting procedure to the Committee on the Rights of the Child, recommendations issued by independent human rights institutions, national and international NGOs, as well as UN agencies. The key informants consulted for this study noted recurrently that there are significant challenges of translating national laws and policies into practice. The challenge of implementation is not unique to the IMPACT countries but is a common phenomenon observed in other European countries and in other regions. Despite the awareness and broad-based consensus, effective strategies for enhancing the status and quality of implementation are not yet in place. It is therefore timely to reflect upon the meaning of these insights for current anti-trafficking and child protection responses and to develop innovative approaches for change.



The strong focus on the limited capability of the public administrations to implement the CRC, as presented in this transnational analysis, needs to be read in conjunction with the four national IMPACT reports that discuss in more detail positive initiatives, success factors and innovative examples identified within each of the four countries, not least the dedication, commitment and experience of policy makers, officials and professionals working with and for children at all levels. The transnational analysis has taken a deliberate decision to focus concisely on the challenges and struggles in order to present a compelling argument for re-focusing the European debate and practice in anti-trafficking responses.





THE IMPACT APPROACH AND METHODOLOGY

The IMPACT project was rolled-out as a multi-step process combining national and transnational activities. It consisted of three components that were developed in close coordination and mutually informed each other: a research component, a consultative learning component involving relevant professionals and officials from each of the countries, and the development of guiding determinants of risk and protection.⁵ This chapter provides an overview of the research component of IMPACT, including its background, approach and methodology.

A. CHILD TRAFFICKING IN EUROPE: REVISITING EXISTING KNOWLEDGE AND EVIDENCE AS A DEPARTING POINT FOR IMPACT

In Europe, national governments have achieved important progress in addressing child trafficking through targeted law and policy reforms, regional standard-setting and cooperation in the context of the European Union (EU) and the Council of Europe. Anti-trafficking responses have led to individual cases of success in assisting victims and prosecuting perpetrators. Nevertheless, the practice of child trafficking continues throughout Europe. Although the anti-trafficking field is considered cost-intensive and investments of governments in this field are monitored internationally, evidence of the effectiveness of the approaches and measures chosen to reduce trafficking is weak or absent.⁶

There is a solid body of evidence that attests to the significant challenges and dilemmas that officials and professionals are confronted with when developing response and prevention measures to child trafficking.⁷ The state of research, knowledge and experience, as summarised here below, is the departing point for IMPACT:

⁵ For more information, see the IMPACT website available at: www.impact-eu.org.

⁶ See for instance the discussion in: Van der Laan, Peter H., Monika Smit, Inge Busschers and Pauline Aarten, Cross-border Trafficking in Human Beings: Prevention and intervention strategies for reducing sexual exploitation, The Campbell Collaboration, Campbell Systematic Reviews, 2011:9, Oslo, December 2011.

⁷ This section is based on findings, observations and conclusions presented, among others, in the following studies and reports: United Nations Children's Fund Innocenti Research Centre (2008), Child Trafficking in Europe, A Broad Vision to Put Children First, Innocenti Insight, Florence. United Nations Children's Fund Innocenti Research Centre (2008), Young People's Voices on Child Trafficking: Experiences from South Eastern Europe, Innocenti Working Paper No. IWP-2008-05, Florence. United Nations Children's Fund Innocenti Research Centre (2012), Child Trafficking in the Nordic Countries, Rethinking strategies and national responses, A Technical Report, Florence. Council of the Baltic Sea States, Child Centre, Expert Group for Cooperation on Children at Risk (2013), Children Trafficked for Exploitation in Begging and Criminality: A challenge for law enforcement and child protection, Stockholm. O'Connell Davidson, Julia and Caitlin Farrow (2007), Child Migration and the Construction of Vulnerability, School of Sociology & Social Policy, University of Nottingham, Save the Children Sweden. CARDET, Defence for Children, et al. (2012), GATE, Guardians Against Child Trafficking and Exploitation, European Report. Todres, Jonathan (2010), Taking Prevention Seriously: Developing a comprehensive response to child trafficking and sexual exploitation, Vanderbilt Journal of Transnational Law, Volume 43, Number 1, January 2010. Global Alliance Against Traffic in Women, Collateral Damage, The impact of anti-trafficking measures on human rights around the world, available at: http://www.gaatw.org/Collateral%20Damage_Final/singlefile_CollateralDamagefinal.pdf (accessed September 2013). Save the Children (2007), Children Speak Out, Trafficking risk and resilience in Southeast Europe, Regional Report, available at: http://www.childtrafficking.com/Docs/save_the_children_1007.pdf (accessed September 2013). Caritas Italiana, Coordinamento Nazionale Comunità Accoglienza (2013), Anticipazioni su Punto e a Capo Sulla Tratta, Presentazione del 1° rapporto sulla tratta delle persone e grave sfruttamento. Cited in: IMPACT National Report Italy, Chapter 4.4.3.

Child trafficking takes many different forms. Child victims and children at risk are a highly heterogeneous group, just as their exploiters, and the forms and dynamics of exploitation are constantly changing. Measures to address child trafficking are however often guided by stereotype perceptions that fail to reflect the diversity of the issue. In many countries, responses are still primarily targeted at girls who are exposed to sexual exploitation. Children exploited in criminal activities might be considered perpetrators rather than victims of crime. Unaccompanied third country nationals are more readily perceived as children at risk, whereas it is less common to consider accompanied child migrants, EU citizens or nationals as potential victims.⁸

Despite the diversity, studies throughout Europe have identified striking commonalities with regard to the risks that render children vulnerable to exploitation and the causes and contributing factors of child trafficking. These include social and economic marginalisation, dysfunctional family backgrounds, experiences of neglect, abuse or violence within the family or in institutions, exploitative relationships, gender-based violence and discrimination, experiences of living or working on the streets, precarious and irregular migration situations, aspirations to work and to earn money and limited opportunities to enter or remain in school, vocational training or regular employment. Many of these risks are rooted in underlying structural factors that contribute to creating vulnerability to exploitation and trafficking. As the children who are exploited have often previously been denied their rights, child trafficking is considered not only a result of criminal activities, it is essentially indicating the weak capability of national governments to effectively safeguard children's rights to a safe and healthy development.⁹

Although the complexity of child trafficking and its underlying causes and contributing factors has been widely recognised, measures in law, policy and practice are struggling to value and embrace it in a way that is meaningful, effective and rights-based. There is a general tendency in policy making and service provision of defining 'categories' of children and developing targeted responses to these specific groups. Whereas specialised expertise and targeted measures are important, there is consensus that they will achieve better results when they are integrated into broader policy strategies that consider the child in a holistic way and recognise that all the human rights are inter-related and indivisible.

As evidenced by previous research, some child rights themes tend to be prioritised in policy and practice to the effect that there are more clearly pronounced programmes and services for certain groups of children than for others. European studies on migration and crime victims noted that the groups that have received a comparatively higher degree of attention in policy and practice are unaccompanied asylum seeking children, child victims of trafficking, and child victims of sexual exploitation. Less priority has been attached to the situations of accompanied child migrants, including EU citizens, undocumented children, or children living or working on the streets. All of these groups, nationals and non-nationals, are however considered potentially at risk of exploitation and trafficking.¹⁰

As a result of this 'categorisation' approach in child policy, the institutional mandates and responsibilities, policy measures and service delivery are fragmented. The status of the child becomes an impor-

⁸ See for instance: United Nations Children's Fund Innocenti Research Centre (2012), *Child Trafficking in the Nordic Countries, Rethinking strategies and national responses*, A Technical Report, Florence. O'Connell Davidson, Julia and Caitlin Farrow (2007), *Child Migration and the Construction of Vulnerability*, School of Sociology & Social Policy, University of Nottingham, Save the Children Sweden.

⁹ See for instance: United Nations Children's Fund Innocenti Research Centre (2008), *Young People's Voices on Child Trafficking: Experiences from South Eastern Europe*, Innocenti Working Paper No. IWP-2008-05, Florence, accessed from: http://www.unicef-irc.org/publications/pdf/iwp_2008_05.pdf. United Nations Children's Fund Innocenti Research Centre (2008), *Child Trafficking in Europe, A Broad Vision to Put Children First*, Innocenti Insight, Florence, pp. 12-16. Save the Children (2007), *Children Speak Out, Trafficking risk and resilience in Southeast Europe*, Regional Report, pp. 20-29.

¹⁰ The Crime Victim Compensation and Support Authority (2010), *Child Victims in the Union – Rights and Empowerment*, A report of the CURE project 2009-2010, Umeå, available at: <http://resourcecentre.savethechildren.se/sites/default/files/documents/4986.pdf> (accessed October 2013), p. 10. United Nations Children's Fund Innocenti Research Centre (2012), *Child Trafficking in the Nordic Countries, Rethinking strategies and national responses*, A Technical Report, Florence, pp. 23, 91-92. O'Connell Davidson, Julia and Caitlin Farrow (2007), *Child Migration and the Construction of Vulnerability*, School of Sociology & Social Policy, University of Nottingham, Save the Children Sweden, p. 9.



tant determinant for the type of response offered, and might override an assessment of the individual situation and needs of a child. The status of a child is defined primarily by his or her immigration status and the status as a victim of a specific offence. Research has evidenced that it can be pivotal for a child that this status is officially identified and verified as a precondition for accessing certain services and for entitlements such as obtaining a residence or work permit.¹¹

Research has further evidenced that the fragmentation of institutional mandates may create situations in which the uncertainty about a child's status and the corresponding institutional responsibilities place children at risk of falling through the gaps of the protection system. When the categorisation of children into specific groups as defined by law and policy becomes the primary determinant for protection, children have reduced chances of benefiting from the support that they would be entitled to under international standards. Boys and girls who do not neatly fit into the pre-established categories, who do not respond to the common stereotypes, or who are not officially identified and registered, might be facing additional challenges of accessing support services. In consequence, the strong reliance on status and identification bears a risk of creating different standards for different groups, excluding individual children and exposing them potentially to discrimination on the grounds of status.¹²

The provision of support services for child victims of trafficking is, in some contexts, tied to the official recognition as a victim of trafficking. At the same time, the victim status in some countries is tied to mandatory conditions that the child has to accept in order to access specific support services.¹³ The existing mechanisms for the identification and verification of the victim status are effective in some contexts, especially where victims are eager to exit the situation of exploitation and to accept assistance, and where perpetrators are prosecuted successfully. For many cases of child exploitation, the traditional anti-trafficking responses are however neither effective nor appropriate. Trust between the persons exposed to exploitation and the authorities is hard to establish. Testimonies from victims and service providers ascertain that the incentives for victims to accept assistance and exit situations of exploitation are often considered low.¹⁴ Although there are no official data or reliable estimates of the real scope of child trafficking, there is a broad-based consensus among researchers and practitioners that a higher number of children than those officially identified are exposed to or at risk of exploitation, in the context of trafficking or otherwise.¹⁵ The highly cost-intensive anti-trafficking responses cater therefore only to a very limited number of persons selected from a much broader target group of potential beneficiaries.

The ineffective identification of victims is partially also due to the challenges of reaching conceptual clarity on what actually constitutes human trafficking. The international definition¹⁶ leaves vast room

¹¹ See for instance: United Nations Economic and Social Council (2002), Recommended Principles and Guidelines on Human Rights and Human Trafficking, Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council, E/2002/68/Add.1, 20 May 2002, available at: [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.2002.68.Add.1.En?Opendocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.2002.68.Add.1.En?Opendocument) (accessed September 2013), Guideline 2. See also: United Nations Office of the High Commissioner for Human Rights (2010), Recommended Principles and Guidelines on Human Rights and Human Trafficking, Commentary, New York and Geneva, available at: http://www.ohchr.org/Documents/Publications/Commentary_Human_Trafficking_en.pdf (accessed September 2013), pp. 162-164.

¹² See for instance: United Nations Children's Fund Innocenti Research Centre (2012), Child Trafficking in the Nordic Countries, Rethinking strategies and national responses, A Technical Report, Florence, pp. 34-42, 50-55, 91-92.

¹³ See for instance: United Nations Children's Fund Innocenti Research Centre (2012), Child Trafficking in the Nordic Countries, Rethinking strategies and national responses, A Technical Report, Florence, p. 40. See also the discussion of the Italian Article 18 in: IMPACT National Report Italy, Chapter 4.4.3.

¹⁴ See for instance: United Nations Children's Fund Innocenti Research Centre (2012), Child Trafficking in the Nordic Countries, Rethinking strategies and national responses, A Technical Report, Florence, p. 40.

¹⁵ See for instance: United Nations Children's Fund Innocenti Research Centre (2008), Child Trafficking in Europe, A Broad Vision to Put Children First, Innocenti Insight, Florence, pp. 6-8. United Nations Children's Fund Innocenti Research Centre (2012), Child Trafficking in the Nordic Countries, Rethinking strategies and national responses, A Technical Report, Florence, p. 18. Council of the Baltic Sea States, Child Centre, Expert Group for Cooperation on Children at Risk (2013), Children Trafficked for Exploitation in Begging and Criminality: A challenge for law enforcement and child protection, Stockholm, p. 7.

¹⁶ The international definition of child trafficking is provided for under the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Article 3. See Glossary of key terms in the Annex.



for interpretation, and the concepts applied nationally and locally vary. At the national and European levels, consensus has not yet been reached on how human trafficking is distinguished from other contexts of exploitation, from situations of precarious migration and work, from the sale of children, or from the smuggling of migrants.¹⁷ As the international definition of child trafficking was drafted for a criminal law context, its application to the child protection and child rights discourse and its value thereto has been questioned.¹⁸ When the interpretation of the concept is not guided by clear regulations, child victims might be subject to a potentially arbitrary identification process.¹⁹

Measures to address child trafficking are often of a reactive and responsive nature rather than integrating also proactive measures of prevention, early identification and empowerment. Existing responses are still mostly limited to addressing the immediate exploitative situations, rather than also the precarious living situations from which victims emerge and to which they often return. Prevention measures focused on information and awareness raising are too weak to achieve sustainable results.²⁰

Considering the complexity and the multi-faceted challenges, previous studies have concluded that child trafficking cannot be addressed in isolation. Responses in policy and practice will likely be more effective if they are integrated into broader strategies for addressing the exploitation of children in a comprehensive way, regardless of whether it qualifies as trafficking or not. It was also recommended that a protection-focused response to child trafficking needs to be integrated into broader strategies for the implementation of the UN Convention on the Rights of the Child to value all the human rights of the child as inter-related and indivisible. This implies that measures for prevention, protection and empowerment need to go hand in hand.²¹

Thus far, this contextual understanding of child exploitation and trafficking has not yet been translated successfully into policy and practice. Although policy makers, officials, service providers and researchers are well aware of the prevailing challenges in addressing child trafficking, an effective strategy for change is missing. There are still many structural factors inherent within the public administrations and the way that anti-trafficking responses are being designed that limit their effectiveness. In order to achieve better results, it is important to analyse the existing child protection systems, the political and administrative measures for the implementation of the Convention, but also broader policies for

¹⁷ See for instance: European Commission, Directorate-General Justice, Freedom and Security (2004), Report of the Expert Group on Trafficking in Human Beings, Brussels, p. 47. United Nations Children's Fund Innocenti Research Centre (2008), Child Trafficking in Europe, A Broad Vision to Put Children First, Innocenti Insight, Florence. United Nations Children's Fund (2009), Child Trafficking in East and South-East Asia: Reversing the Trend, UNICEF East Asia and Pacific Regional Office, Bangkok, available at: http://www.unicef.org/eapro/Unicef_EA_SEA_Trafficking_Report_Aug_2009_low_res.pdf, pp. 19-20. Dottridge, Mike (2008), Child Trafficking for Sexual Purposes, A contribution of ECPAT International to the World Congress III against Sexual Exploitation of Children and Adolescents, Rio de Janeiro, Brazil, 25-28 November 2008, p. 71. European Union Agency for Fundamental Rights (2008), The Protection of the Rights and Special Needs of Trafficked Children, A Thematic Discussion Paper Prepared for the European Union Agency for Fundamental Rights, by Eurasyllum Ltd., Vienna, April 2008, available at: http://www.fra.europa.eu/fraWebsite/research/publications/studies_discussion_papers/tr_trafficking_children_en.htm (accessed September 2013), p. 21. See further: Todres, Jonathan (2010), Taking Prevention Seriously: Developing a comprehensive response to child trafficking and sexual exploitation, Vanderbilt Journal of Transnational Law, Volume 43, Number 1, January 2010, available at: <http://law.vanderbilt.edu/publications/journal-of-transnational-law/archives/volume-43-number-1/download.aspx?id=4616>, p. 18. Anderson, Bridget (2008), "Illegal Immigrant": Victim or villain?, ESRC Centre on Migration, Policy and Society, Working Paper No. 64, University of Oxford, available at: <http://www.compas.ox.ac.uk/fileadmin/files/pdfs/WP0864%20Bridget%20Anderson.pdf> (accessed September 2013), p. 6.

¹⁸ Touzenis, Kristina (2010), Trafficking in Human Beings, Human rights and trans-national criminal law, developments in law and practice, UNESCO Migration Studies 3, Paris, available at: <http://unesdoc.unesco.org/images/0018/001883/188397e.pdf> (accessed September 2013), pp. 9-10, 27. See also: Bhaba, Jacqueline, Trafficking, Smuggling, and Human Rights, Harvard University, March 2005.

¹⁹ See for instance: United Nations Children's Fund Innocenti Research Centre (2012), Child Trafficking in the Nordic Countries, Rethinking strategies and national responses, A Technical Report, Florence, pp. 27-44. United Nations Children's Fund Innocenti Research Centre (2008), Child Trafficking in Europe, A Broad Vision to Put Children First, Innocenti Insight, Florence, pp. 23-28. Dottridge, Mike (2008), Child Trafficking for Sexual Purposes, A contribution of ECPAT International to the World Congress III against Sexual Exploitation of Children and Adolescents, Rio de Janeiro, Brazil, 25-28 November 2008, p. 42.

²⁰ See for instance: United Nations Children's Fund Innocenti Research Centre (2008), Child Trafficking in Europe, A Broad Vision to Put Children First, Innocenti Insight, Florence, pp. 40-41. United Nations Children's Fund Innocenti Research Centre (2012), Child Trafficking in the Nordic Countries, Rethinking strategies and national responses, A Technical Report, Florence, p. 34.

²¹ See for instance: European Commission, Directorate-General Justice, Freedom and Security (2004), Report of the Expert Group on Trafficking in Human Beings, Brussels. United Nations Children's Fund Innocenti Research Centre (2012), Child Trafficking in the Nordic Countries, Rethinking strategies and national responses, A Technical Report, Florence, pp. 91-92, 94.



human rights, labour regulations and the European immigration regime. It would be important to better understand how the strengths, gaps and challenges within these structures and systems contribute to reducing or increasing the risk of exploitation and trafficking.

Against this background, IMPACT proposes to revisit responses against child trafficking from a perspective focused on the rights and well-being of the child. It argues that a more effective implementation of the Convention will help reducing structural vulnerability to exploitation, redressing risk factors, and empowering children, families and communities to strengthen and activate their resilience. A more effective implementation of the Convention will create protective and enabling safety nets in which cases of exploitation may be prevented or identified more effectively and where response measures shall be more appropriate and appealing to those who are exposed to exploitation.

By taking the existing knowledge and evidence as a departing point, IMPACT aims to contribute to a debate for change. IMPACT argues that the knowledge and evidence base is sufficiently strong to inform the development of more effective measures against child exploitation. It is timely to progress from reiterating findings, challenges and dilemmas, to testing out and debating forward-looking approaches that achieve positive change for the children and families concerned and the European community and its international relations.

B. VULNERABILITY TO EXPLOITATION AND TRAFFICKING: UNDERSTANDING THE CONCEPT FROM AN ECOLOGICAL PERSPECTIVE

The term ‘vulnerability’ is commonly used in the debate on child trafficking. Children are often per se considered ‘vulnerable’ and in need of special protection. A systematic conceptual debate on vulnerability for the context of protection from exploitation and trafficking has however not yet taken place although vulnerability is considered a key concept in relation to the prevention of trafficking and the identification of children at risk.

In the absence of a definition of ‘vulnerability’ for the child protection context, it is useful to understand how the concept has been defined in other fields. Definitions of vulnerability in relation to child rights themes have been developed in the areas of health, poverty, and social protection.²² These definitions aim to guide the assessment or measurement of vulnerability and to thereby inform policy making and programming for identifying particularly vulnerable groups and developing targeted support measures.

A comparative review of the definitions developed for the contexts of health, poverty and social protection reveals that there are common elements in how the concept of vulnerability is being understood across the various disciplines. These common elements are summarised in this section. They inform the IMPACT approach and are applied to the child rights context, including specifically for understanding vulnerability to exploitation and trafficking.²³

²² For a comprehensive review of definitions and approaches used in the analysis and measurement of vulnerability to poverty, see: Dercon, Stefan (2001), *Assessing Vulnerability to Poverty*, Oxford University.

²³ Internationally, there is no unified definition of vulnerability and it remains therefore a challenge to reach conceptual clarity. For a more comprehensive review of definitions and approaches used for the analysis and measurement of vulnerability in different disciplines, including economics, sociology, anthropology, disaster management, environmental science, health and nutrition, see: Alwang, Jeffrey; Paul B. Siegel; Steen L. Jorgensen (2001), *Vulnerability: A view from different disciplines*, Social Protection, The World Bank, Social Protection Discussion Paper No. 0115. IMPACT builds significantly on the contextual understanding of vulnerability developed in: Wenke, Daja (2011), *Vulnerable Children in Switzerland, Safeguarding the Rights of Every Child, A Discussion of a Systemic Approach to the Implementation of the Convention on the Rights of the Child*, Swiss Committee for UNICEF. CARDET, *Defence for Children*, et al. (2012), GATE, *Guardians Against Child Trafficking and Exploitation, European Report*, O’Connell Davidson, Julia and Caitlin Farrow (2007), *Child Migration and the Construction of Vulnerability*, School of Sociology & Social Policy, University of Nottingham, Save the Children Sweden. Dignitas (2011), *Manuale Operativo per Ridurre la Vulnerabilità e Promuovere le Risorse nel Sistema Asilo*, Defence for Children.



Existing definitions have reached consensus that vulnerability is an aggregate concept composed of a dynamic interaction of risk and resilience. Vulnerability is caused by risk and balanced by resilience, i.e. the capacity to handle the risk.²⁴ Measures that seek to reduce risks and at the same time strengthen resilience will therefore be well placed to reduce vulnerability. For the context of child exploitation, this implies a need to combine protection measures to minimise risks of exploitation with empowering measures to strengthen resilience and contribute to broad-scale prevention.

Risk and resilience, as the determinants of vulnerability, are neither isolated nor static but need to be understood according to a dynamic ecological model: personal risks and resilience are closely intertwined with risks and resilience deriving from direct and indirect relations, systems and environments that individuals are exposed to and interact with.²⁵

Identifying and strengthening resilience factors is considered a key strategy to limit the impact of vulnerability. Whereas the concept of resilience was initially conceived as an individual or personal attribute, it has evolved into a broader, ecological understanding recognising the interaction between factors that are internal or external to the person.²⁶ Child protection and social welfare policies can support children in building resilience, including by providing a protective environment, quality information in a language the child understands, child sensitive reporting and complaint mechanisms, offering opportunities for the meaningful socio-political participation of children, strengthening families and, overall, ensuring that the CRC and its general principles are fully respected in practice. In addition to strengthening the personal resilience of children, it is therefore imperative to consider the specific context and environment of a boy or a girl in order to reduce external risk factors and to enable children to access protection and support services.²⁷

As noted in the previous section, the vulnerability of children to exploitation and trafficking is indeed often described in relation to external and structural factors. A study on the evolving capacities of the child noted that structural factors can co-determine children's vulnerability: "... in practice, much of the vulnerability of children derives not from their lack of capacity, but rather from their lack of power and status with which to exercise their rights and challenge abuses."²⁸ A study examining the vulnerability of migrating children concluded that migration policies and the way they are being implemented in practice can contribute to "constructing the vulnerability of certain groups of [migrant] children".²⁹

IMPACT understands the vulnerability of a child to exploitation and trafficking according to an ecological model where sources of risk and resilience derive from different levels. The ecological model expresses the dynamic relations between different elements and layers of the child's ecology and their interaction with the person (see **f1**). For policy making, this implies that legal approaches of enacting

²⁴ See: Sabates-Wheeler, Rachel; Waite, Myrtha (2003), *Migration and Social Protection: A concept paper*, Issued by the Development Research Centre on Migration, Globalisation and Poverty, Institute of Development Studies, University of Sussex. Working Paper T2, Sussex, p. 12. Dercon, Stefan (2001), *Assessing Vulnerability to Poverty*, Oxford University, p. 4; 27. Alwang, Jeffrey; Paul B. Siegel; Steen L. Jorgensen (2001), *Vulnerability: A view from different disciplines*, Social Protection, The World Bank, Social Protection Discussion Paper No. 0115, Executive Summary (no page numbers); p. 2-3. See also: Kabeer, Naila (2002), *Safety Nets and Opportunity Ladders, Addressing vulnerability and enhancing productivity in South Asia*, Overseas Development Institute, Working Paper 159, p. 7.

²⁵ See: Bronfenbrenner, Urie (1993), *Ecological System Theory, Specific Environments: Thinking in contexts*, edited by R. Wozniak and K Fisher, Hillsdale, N.Y., USA: Erlbaum.

²⁶ Luthar, Suniya S., Dante Cicchetti, Bronwyn Becker (2000), *The Construct of Resilience, A critical evaluation and guidelines for future work*, Child Development, Volume 71, No. 3, May-June 2000, p. 543-562, p. 544. Snider, Leslie M. (2006), *Psychosocial Vulnerability and Resilience Measures for National-Level Monitoring of Orphans and Other Vulnerable Children: Recommendations for revision of the UNICEF psychosocial indicator Report prepared for UNICEF*, p. 15.

²⁷ Luthar, Suniya S., Dante Cicchetti, Bronwyn Becker (2000), *The Construct of Resilience, A critical evaluation and guidelines for future work*, Child Development, Volume 71, No. 3, May-June 2000, p. 543-562, p. 544. See also: Save the Children (2007), *Children Speak Out, Trafficking Risk and Resilience in Southeast Europe, Regional Report*, p. 12.

²⁸ United Nations Children's Fund Innocenti Research Centre, Save the Children (2005), *The Evolving Capacities of the Child, Innocenti Insight*, by Gerison Lansdown. Florence, p. 32.

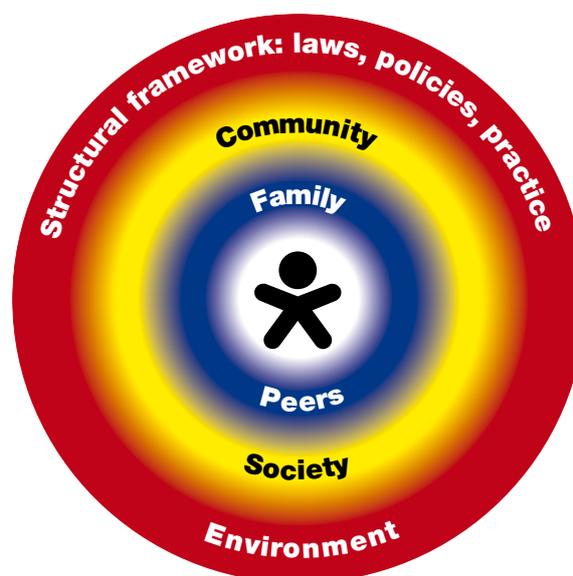
²⁹ O'Connell Davidson, Julia and Caitlin Farrow (2007), *Child Migration and the Construction of Vulnerability*, School of Sociology & Social Policy, University of Nottingham, Save the Children Sweden, p. 10.



child rights standards and strengthening the accountability of public authorities need to be combined with developmental and 'bottom-up' approaches to strengthen the assets of children and families as well as protective mechanisms at the local level.³⁰

Considering the dynamic interaction of risk and resilience, vulnerability is a context-specific phenomenon that can change over time and space.³¹ It refers to the probability that a future adverse outcome, i.e. an unfavourable and potentially harmful event or process, will result in a decline of well-being of the person. It does however not allow generalised conclusions about the present state of the person. A state of vulnerability is therefore not necessarily synonymous to the actual experience of exploitation, violence or other adverse outcomes.³² This contextual and dynamic understanding of vulnerability implies that children who are vulnerable to exploitation cannot necessarily be identified by any external, visible factors but that their present situation and history needs to be understood in-depth. An individual case assessment is key to assess the specific risks a child is facing, his or her resilience and access to protective mechanisms. The understanding of the child's personal history and situation is important for decision taking processes concerning the child. In case of migrant children, this implies that it is important to assess how risk and resilience may change in the child's ongoing migration, transfer to another place, or repatriation.

f1 *Risk and resilience influencing child vulnerability at all levels of the ecological model*



Vulnerability is also understood to cut across various sectors to the effect that the risks in relation to different rights are often closely intertwined and are considered accumulative. Vulnerability in relation to health or socio-economic exclusion, for instance, is likely to have an impact on the child's performance in education. A child who is already living in a vulnerable situation and is therefore impacted in his or her resilience, such as in a situation of poverty, abuse or school-drop out, is assumed to be even more vulnerable when facing additional risks, such as exploitative relationships or risky migration.³³ A multi-

³⁰ See the 'child rights ecology' model: International Institute for Child Rights and Development (2007), *A Developmental Child Rights Approach*, pp. 1, 7. See also: Bateson, Gregory (2000), *Steps to an Ecology of Mind*, *Collected Essays in Anthropology, Psychiatry, Evolution and Epistemology*, University of Chicago.

³¹ See for example: Kabeer, Naila (2002), *Safety Nets and Opportunity Ladders, Addressing vulnerability and enhancing productivity in South Asia*, Overseas Development Institute, Working Paper 159, p. 6.

³² Sabates-Wheeler, Rachel; Waite, Myrtha (2003), *Migration and Social Protection: A concept paper*, Issued by the Development Research Centre on Migration, Globalisation and Poverty, Institute of Development Studies, University of Sussex. Working Paper T2, Sussex, p. 15.

³³ Engle, Patrice L., Sarah Castle, Purnima Menon (1996), *Child Development, Vulnerability and Resilience*, International Food Policy Research Institute, FCND Discussion Paper No. 12, Washington, p. 28. See also: Skinner, D. et al. (2004), *Defining Orphaned and Vulnerable Children*, Human Sciences Research Council, p. 17.

sectoral approach is therefore required to address vulnerability in a comprehensive way.

Although every person can be considered vulnerable, existing definitions note that vulnerability is context-specific and needs to be defined in relation to a specific benchmark that indicates the adverse outcome.³⁴ Defining vulnerability simply as the possibility of a decline in well-being is not useful, since this would apply to every single person and the term would be too imprecise for practical use in policy making and programming.³⁵ For the child rights context, the human rights of the child, as afforded under international standards, are considered the benchmark and the adverse outcome would be an infringement against or violation of these rights.

Summarising the discussion above, for the purpose of the IMPACT study, child vulnerability to exploitation and trafficking is understood as a multi-sectoral, ecological and rights-based concept. It refers to the limited chances of a child to fully exercise his or her rights as afforded under the Convention on the Rights of the Child. Vulnerability depends on the number and severity of infringements or violations that a child is or may be exposed to (the risk) as well as the child's resilience. Risk and resilience are understood according to an ecological model. They interact at multiple levels and are accumulating: personal risk and resilience are closely intertwined with risk and resilience deriving from relationships, socio-political systems and the environment. Child vulnerability can be caused or exacerbated when the capability of the public administration to implement child rights standards is weak and when it does not succeed to safeguard the human rights of the child in practice. This is understood as structural vulnerability. Structural vulnerability is related to state structures, action or inaction, and can result in the violation of the rights of the child.³⁶

C. THE IMPACT APPROACH: A HOLISTIC PERSPECTIVE WITH THE CHILD AT THE CENTRE

Building on the knowledge and evidence discussed above, and on a contextual understanding of vulnerability, IMPACT was conceived to propose a forward-looking approach to address the exploitation and trafficking of children. The guiding hypothesis of IMPACT is that the full implementation of the UN Convention on the Rights of the Child into practice would contribute significantly to protecting children at risk and preventing the exploitation of children, including in the context of trafficking. The underlying assumption is that structural vulnerability to exploitation and trafficking needs to be redressed in order for anti-trafficking measures to take hold.

IMPACT proposes therefore to complement measures that address situations of exploitation with measures that are targeted at addressing the underlying socio-economic and structural factors that create an environment in which children are vulnerable to exploitation. From a policy making perspective, this has three implications: a) national child protection systems need to be strengthened to identify and respond to all forms and contexts of exploitation and children at risk; b) national child protection systems need to be embedded into broader strategies for the implementation of the CRC; and c) due attention needs to be given to ensure that these systems are operating effectively and that national laws and policies are implemented into child rights practice.

³⁴ See for instance: Alwang, Jeffrey; Paul B. Siegel; Steen L. Jorgensen (2001), Vulnerability: A view from different disciplines, Social Protection, The World Bank, Social Protection Discussion Paper, No. 0115.

³⁵ Alwang, Jeffrey; Paul B. Siegel; Steen L. Jorgensen (2001), Vulnerability: A view from different disciplines, Social Protection, The World Bank, Social Protection Discussion Paper, No. 0115, p. 29.

³⁶ Adapted from the definition of vulnerability presented in: Wenke, Daja(2011), Vulnerable Children in Switzerland, Safeguarding the Rights of Every Child, A Discussion of a Systemic Approach to the Implementation of the Convention on the Rights of the Child, Swiss Committee for UNICEF.



National child protection systems³⁷ hold the central responsibility for providing support and assistance to child victims and children at risk. Yet, a protection-focused response will by itself not suffice to effectively address child exploitation and trafficking. Many vital measures for the prevention of exploitation and the empowerment of children fall into the remit of policy sectors that may not be under the control of a national child protection system. They include social and economic policies, the labour market and employment, migration regime, the education and health systems, and matters of governance, such as fiscal policies, budget allocation and the rule of law. In consequence, a national child protection system can only fulfil its mandate when it is understood as an integral part of a broader system for the implementation of the Convention on the Rights of the Child and when the public administration is operating effectively to make these systems work.

Against this background, IMPACT engages in a discussion of the capability of the public administrations to implement child rights standards effectively and consistently into child rights practice. Strengthening the capability of the public administration to implement is considered the key strategy for reducing the risk of exploitation, enhancing children's resilience and offering stronger protection from exploitation and trafficking. This approach shall be considered complementary to the traditional anti-trafficking responses, proposing strong partnerships, cooperation and coordination of all the relevant sectors and actors involved. The promotion of human rights standards and their implementation into practice is considered the foundation on which anti-trafficking responses can lead to more sustainable results. It provides an opportunity to leverage the impact of traditional anti-trafficking measures and is expected to render the precious resources invested in this field more effective.

The effective implementation of the Convention would essentially contribute to identifying and redressing the structural factors that contribute to creating vulnerability to exploitation and trafficking. The Convention provides for a continuum of measures for prevention, protection and empowerment and can thereby lead policy makers in the development of more inclusive and appropriate responses that are considered more cost-effective and sustainable. As has been noted by the Committee on the Rights of the Child, effective protection from violence, exploitation and abuse can only be achieved in an environment that safeguards and promotes all the human rights of the child in an integrated way.³⁸ The Convention guides an assessment of the rights and needs of the child across all aspects of the child's person and development. It has a programmatic character that expands the notion of specific rights to a holistic understanding of the person.³⁹

IMPACT adopts the general measures of implementation of the Convention as a guiding framework for analysing the structural set-up of public administrations and their approach to implementing child rights standards.⁴⁰ The 'IMPACT variables' (see Box 2) are applied as a framework for analysing the capability of the public administrations to implement child rights policy in a way that is compliant, inclusive, appropriate and effective. By comparing policy and practice across the different sectors and levels of the public administration, they are assessed for their coherence.

Against this background, the IMPACT study assessed to which degree national laws and policies are *compliant* with the standards afforded under the Convention. The study examined the level of *inclusion* of the various sector-specific approaches in policy and practice, and to which degree their implemen-

³⁷ See the UNICEF definition of a 'national child protection system' available in the Glossary in Chapter 7.

³⁸ United Nations Committee on the Rights of the Child (2011), Report on the Eighteenth Session, Sessional / Annual Report of the Committee, 27 July 1998, CRC/C/79, p. 74. United Nations Committee on the Rights of the Child (2011), General Comment No. 13, The right of the child to freedom from all forms of violence, CRC/C/GC/12, 18 April 2011, par. 13.

³⁹ Costella, Pippo (1998), Diritti dell'infanzia e processi di sviluppo, Note per la formulazione di una strategia di cooperazione internazionale fondata sui diritti dell'infanzia, Arci Cultura e Sviluppo, Roma, pp. 3-4.

⁴⁰ See: United Nations Committee on the Rights of the Child (2003), General Comment No.5, General Measures of Implementation for the Convention on the Rights of the Child, CRC/GC/2003/5, 3 October 2003.



tation into child rights practice is *appropriate* and *effective* to respond to children’s needs and rights. It analysed the coherence between different sector-specific policies from a child rights perspective as well as the coherence between legal obligations and political commitments and the practice.

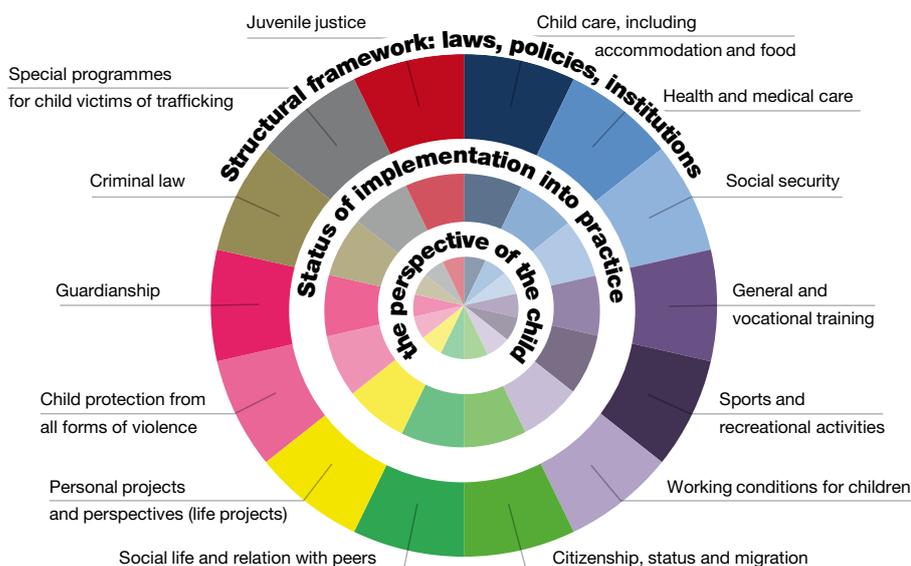
The overall objective was to identify elements and strategies in law, policy and practice that help strengthening policies for child protection and the implementation of the CRC to the effect that they will prevent child trafficking and exploitation more effectively. Through research, analysis and a consultative process, IMPACT aimed to identify opportunities for the policies against child trafficking to evolve from a sector-specific, protection-focused and primarily responsive approach to a more proactive, rights-based and holistic approach (see **b1**).

b1 *The objectives of IMPACT*

- Analyse existing structures and systems of law, policy and practice from the perspective of the child and his or her rights and needs;
- Generate evidence of the strengths and weaknesses of national child protection systems and their capacity to prevent exploitation and trafficking;
- Inform the development of more inclusive child protection systems that prevent and respond to child exploitation and trafficking as part of their mainstream child protection mandates; and
- Understand how the national child protection systems are connected to or integrated into broader strategies for the implementation of the CRC.

In light of the background, approach and objectives of IMPACT, the project conducted research and consultations across a range of policy sectors reflecting the human rights of the child as afforded under the Convention. The sectors under analysis included health, education, protection, care and accommodation, work and employment, migration, sports and leisure time, and justice (see **f2**). This broad approach reflects the aspiration to work with a holistic understanding of the person and his or her rights and needs, which are considered as inter-related and indivisible. It aimed to promote a child-centred approach to the analysis, and the CRC guided the identification of rights and needs and a mapping of the relevant responses in policy and practice.

f2 *IMPACT The sectors under analysis*



The IMPACT national reports are mapping policies in these sectors in order to achieve a vertical and horizontal analysis of each policy sector. The vertical analysis assesses the compliance of the relevant laws and policies in each sector with international child rights standards as well as the status of their implementation into practice. The horizontal analysis conducts a comparative analysis across policy sectors. It aims to identify opportunities for inclusion and synergy between sectors as well as incoherent standards, patterns of exclusion or discrimination. This broad-based analysis aimed to position the protection-focused approach to child exploitation and trafficking within a broader child rights perspective.

The sector-specific analysis is complemented by a review of cross-cutting dimensions such as the general principles of the CRC: the right to non-discrimination (Article 2), the best interests of the child (Article 3), the right to life, survival and development (Article 6) and the right of the child to have his or her views heard and taken into account (Article 12).

D. RESEARCH METHODOLOGY

IMPACT was conceived as an inter-disciplinary, participatory and consultative initiative. It built significantly on the project GATE 'Guardians Against Child Trafficking and Exploitation'.⁴¹ Adopting the methodological framework developed in GATE, the analysis was guided by international child rights standards, structured according to the four clusters of survival, development, participation and protection (see **t1**). These four clusters and the associated rights and needs of the child were used as a simplified 'map' to investigate the living situations of different groups of children in each of the countries as well as the respective measures in law, policy and practice.

t1 *The IMPACT dimensions:
Survival, development,
protection and participation*

Source IMPACT Research Protocol, 2013.

<p>SURVIVAL</p> <ul style="list-style-type: none"> • Child care • Accommodation and food • Health and medical care • Social security for children 	<p>DEVELOPMENT</p> <ul style="list-style-type: none"> • General and vocational education • Sports and recreation activities for children • Working conditions of children
<p>PROTECTION</p> <ul style="list-style-type: none"> • Child protection from all forms of violence • Guardianship • Criminal law • Special programmes for child victims of trafficking • Juvenile justice 	<p>PARTICIPATION</p> <ul style="list-style-type: none"> • Citizenship and migration status • Social life and relation with peers • Relation with family • Personal perspectives and life projects

⁴¹ For more information on the GATE project, please see: GATE (2011), Guardians Against Child Trafficking and Exploitation, available at: <http://gate-eu.org> (accessed December 2012). For an overview of the GATE standards, i.e. the four dimensions, guiding questions and the prevention and protection benchmarks, please see: CARDET, Defence for Children, et al. (2012), GATE, Guardians Against Child Trafficking and Exploitation, National report Italy, pp. 144-145.



Each partner organisation implemented the IMPACT study independently within their national context. The national studies were guided and coordinated by the IMPACT Research Protocol, which defined the background and approach, the method for data collection and analysis and a unified structure for the national reports.⁴²

The national studies were informed by primary and secondary data. A literature review was developed on the basis of the reporting procedure to the UN Committee on the Rights of the Child as well as selected studies and reports on child rights themes, including in the areas of child protection, migration and trafficking, and socio-economic policies. In addition, the national studies reviewed the relevant national laws, policies and institutional frameworks. The researchers sought to assess the application and implementation of national laws and policies into practice and their impact on children, to the extent that information was available and accessible. The objective was not to achieve a comprehensive analysis of all elements of the national systems but a discussion of selected examples that provide evidence for associated risks of exploitation and trafficking. With the 'IMPACT variables', the study adopted a set of guiding questions of analysis that had previously been applied in the GATE project (see **b2**).

b2 *The 'IMPACT variables': Guiding questions of analysis*

Source IMPACT Research Protocol, 2013.

- To which extent are the responses in law, policy and practice inclusive or exclusive in the sense that they apply to all children in the country?

The aim is to collect data and information on the capability of the national policies for child protection and CRC implementation to include each child, as well as on the main factors which can influence (enhance or reduce) the capability of the systems to promote inclusion.

- To which extent are the responses in law, policy and practice appropriate to the specific needs, rights and characteristics of the individual child?

The aim is to collect data and information on the capability of the national policies for child protection and CRC implementation to respond to each child's needs and rights in an appropriate way, as well as on the main factors which can influence (enhance or reduce) the level of appropriateness of the systems. The appropriateness is closely connected to the capacity of the child protection and social welfare systems to work with individual case and needs assessments that give due account to the specific situation and views of each individual child.

- To which extent are the responses in law, policy and practice effective in reducing the risks, enhancing the protection and promoting the empowerment of children?

The aim is to collect data and information on the capability of the national policies for child protection and CRC implementation to prevent trafficking and exploitation and to protect child victims and children at risk in practice, as well as on the main factors which can influence (enhance or reduce) the level of effectiveness of the systems.

- To which extent are the responses in law, policy and practice compliant with international standards?

The aim is to collect data and information on the compliance of the national policies for child protection and CRC implementation and the way they operate in practice with national and international standards on children's rights, as well as on the main factors which can influence (enhance or reduce) the compliance of the systems.

⁴² CARDET, Defence for Children, et al. (2013), IMPACT Research Protocol, Improving and Monitoring Protection Systems Against Child Trafficking and Exploitation, available at: www.impact-eu.org.

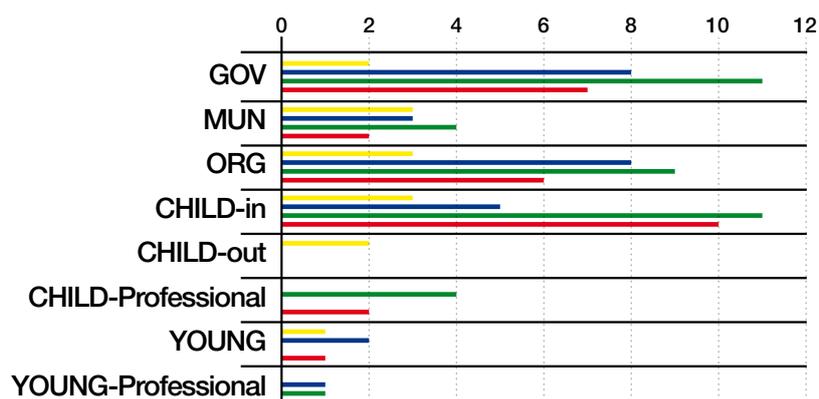
The desk review was complemented by key informant interviews and consultations with children and young adults. Key informant interviews were conducted with policy makers and public officials in ministries and state institutions (GOV), regional or municipal authorities (MUN), independent institutions, child rights advocates and professionals working with and for children, in service provision or other contexts (ORG). The consultations with children and young people were conducted with three groups: Children considered at risk of exploitation who are assisted in residential child care institutions, reception centres or other shelters (CHILD-in); children at risk who are not assisted by residential child protection services but are in contact with specialised support structures such as outreach services or drop-in centres (CHILD-out); and young adults who have had experiences of exploitation or trafficking as children (YOUNG). **f3** provides an overview of the different groups and numbers of informants.

The enrolment of child and young participants was guided by the identification of supporting structures and centres where professionals working with them were providing support and facilitated the contact. It was aimed at a balanced gender representation. In some of the countries, the national research teams experienced difficulties in obtaining access to children and young adults as informants, so that the number and type of informants varies. An alternative approach was to conduct key informant interviews with professionals involved in service provision for the children or young people concerned (CHILD-Professional and YOUNG-Professional).⁴³

f3 Number of key informants consulted for primary data collection per country

Source IMPACT 2013.

■ Cyprus
■ Greece
■ Italy
■ Portugal



The data collection tools were prepared as part of the research protocol and were adapted by the national research teams to the specific questions identified in each country. The consultations with children and young adults were conducted as narrative sessions guided by the 'GATE Game' (see **b3**). The researchers facilitated the process without asking intrusive questions about the child's personal history. In order not to awaken memories of negative, dangerous or threatening experiences, and with a view to adopting an empowering and assets-based approach, the narrative sessions focussed on identifying real or potential sources of protection, i.e. the positive experiences that children have had, the empowering, protective factors in their lives and their related recommendations.

The participation of all key informants, including children, was voluntary, confidential and in respect of ethical standards. All informants were notified about the IMPACT study, the purpose of the interview and how the information they shared would be used. Informants consented to participate and were guaranteed that the information they shared would be coded and cited anonymously.⁴⁴ Interviews were conducted in the national language of the country. The interviews aimed to solicit the opinions,

⁴³ The details of the enrolment and selection process are discussed in the IMPACT research protocol and national reports.

⁴⁴ For child participants, the informed consent was obtained not only from the participating children but also from each child's guardian or the responsible care person.

views, experience and recommendations of the key informants in their professional or official capacity. The selection of key informants did not aspire to obtain a representative sample of all policy makers, officials, practitioners and experts involved in addressing the themes under study in the relevant countries. Likewise, the narrative sessions with children and young adults aimed to solicit the individual experiences, views and recommendations of the persons involved and are not considered representative of all children at risk of or exposed to exploitation and trafficking.

b3 *The GATE Game*⁴⁵

Source *GATE, 2011.*

- The GATE Game is a card game consisting of 16 different cards designed in a cartoon style that is considered to appeal to children and adults alike. Each card relates to a specific need and right of the child, such as family relations, safety, food, accommodation, health, or friendship. Each of the GATE cards displays two images, representing one positive side and an opposing negative side.
- When used in narrative sessions with children, the GATE game aims to solicit the children's views, suggestions and recommendations on sources of protection and empowerment, as well as gathering implied information about sources of risk and disempowerment. The children are engaged in a playful narration on the needs and rights represented by the images on each card. The card game aims to inspire a non-intrusive narration guided primarily by the child's personal reaction to the cards.

The research process was complemented by a consultative process involving representatives from national and local authorities, social workers and service providers, anti-trafficking institutions, independent institutions, NGOs and other experts. Two national consultations were convened per country as well as one joint transnational consultation. The consultations provided a platform for debate and joint learning. The IMPACT approach was presented and discussed and the comments and inputs received from the participants informed the study process. The participants commended and strongly encouraged the IMPACT approach. The consultative process contributed also to fostering existing professional networks of key actors working in the areas of child rights, anti-trafficking, service provision and other relevant fields.

All outputs of the IMPACT study were shared within the project group for peer review, including the research protocol, the generic tools for data collection, the national and transnational reports. External partners supported the peer review in Cyprus and Italy.

⁴⁵ GATE (2011), Guardians Against Child Trafficking and Exploitation, The Gate Game.





THE SOUTHERN EUROPEAN PERSPECTIVE: THE SOCIO-ECONOMIC AND POLITICAL CONTEXT IN TIMES OF CRISIS

As Mediterranean countries, Cyprus, Greece, Italy and Portugal share the geographic position at the outer border of the European Union. All four countries are under the severe strain of the financial and economic crisis and are in charge of controlling the sea border with the support of European Agency for the Management of Operational Cooperation at the External Borders of the EU (FRONTEX). The countries are however also very heterogeneous in terms of their political and economic context and the governance system put in place by the public administrations. This chapter provides a brief overview of the current situation, which is considered relevant for the broader context of children's vulnerability to exploitation and trafficking and the quality and scope of the state responses.

In Greece, the population is dramatically affected by the financial and economic crisis and the country is facing a highly fragile situation.⁴⁶ Fragility expresses itself in weak state structures, a low level of trust between the citizens and the state and considerable challenges of the public administration to implement laws and policies into practice. Concerns about the limited capability of the state to safeguard the human rights of migrants have been noted internationally and have led to the exclusion of Greece from the EU-wide procedures related to the transfer of asylum seekers under the Dublin II Council Regulation.⁴⁷ In light of this situation, the prevention of exploitation and trafficking cannot be addressed without paying due attention to measures focused on promoting stability and statebuilding in Greece.

Italy has the largest population among the four countries and a complex decentralised administration. Frequently changing governments have contributed to a highly fragmented law and policy framework, including in the child rights policy sector.⁴⁸ Cyprus, as the smallest of the four countries, is facing a specific geo-political situation as part of its territory is not under the effective control of the government.⁴⁹

⁴⁶ The OECD defines fragility as follows: "A fragile state has weak capacity to carry out basic functions of governing a population and its territory, and lacks the ability to develop mutually constructive and reinforcing relations with society. As a consequence, trust and mutual obligations between the state and its citizens have become weak." Organisation for Economic Cooperation and Development (2011), Supporting Statebuilding in Situations of Conflict and Fragility, Policy Guidance, DAC Guidelines and Reference Series, November 2011, p. 21.

⁴⁷ See Chapter 5.e.

⁴⁸ See Chapter 5.d.

⁴⁹ The Government of Cyprus is not exercising control over approximately a third of the country's territory, which has been occupied by the Turkish military since 1974. See: United Nations Committee on the Rights of the Child (2011), Consideration of the reports submitted by States parties under article 44 of the Convention, Combined third and fourth periodic reports of States parties due in 2008 – Republic of Cyprus, Republic of Cyprus, CRC/C/CYP/3-4, p. 4. Cited in: IMPACT National Report Cyprus, Chapter 2.



According to the 2013 survey results published by Transparency International for Western Europe and the EU, Greece and Italy are among the countries with the highest level of perceived public sector corruption. Cyprus and Portugal have achieved better results but also rank only at a medium level in the European comparison.⁵⁰ High levels of perceived public sector corruption undermine the trust between the society and the state and are considered to impact the effectiveness of public administrations.

Portugal stands out as the country that has the most clearly organised and systematic approach to the planning and implementation of child rights policy. The public administration has put in place institutions and structures that are inspired by the general measures of implementation of the Convention and consistently reflect regional guidelines and recommendations. In Portugal as in the other countries, the main challenge remains to maintain and advance the status of implementation of the CRC, including in times of crisis, and to make the existing structures work effectively, as will be discussed further in Chapter 5.

A. THE IMPACT OF THE FINANCIAL AND ECONOMIC CRISIS ON CHILDREN

The financial and economic crisis is causing severe strain for the public administrations and the people in Europe. The Southern European countries studied by IMPACT are all strongly affected by the crisis. There are indications from each of the four countries that the effects of the crisis and the way it is being handled is having a harmful impact on children. The impact is visible in the reduction of public spending across various policy sectors; institutions and service provision in the area of health, education, social welfare and child care are significantly affected. Reduced public spending in policy sectors relating to children and families might contribute to creating an environment that is not favourable to the well-being and development of children.

In Greece, the public spending in the health sector has steadily decreased since 2008 and the public health situation has deteriorated markedly as a result. Due to the limited resources, public hospitals cannot guarantee that sufficient medical material, equipment and medication are available. An increase of infant mortality has been observed and also stillbirth cases have increased by a third. The number of new HIV infections has risen, especially among intravenous drug users, as preventive needle exchange programmes were cut down.⁵¹ The Committee on the Rights of the Child noted with great concern that many parents are no longer able to feed their children due to increasing poverty rates. There is a growing number of children who are referred to institutions or other alternative care arrangements due to the economic hardship. These institutions are however also struggling with a shortage of staff and resources. By January 2013, a single allowance for child support was introduced but the benefit granted to each dependent child amounts to barely 40 Euro per month.⁵²

⁵⁰ See: Transparency International (2013a), Corruption Perceptions Index 2013, EU and Western Europe. Transparency International notes that "The Corruption Perceptions Index is based on experts' opinions of public sector corruption. Countries' scores can be helped by strong access to information systems and rules governing the behaviour of those in public positions, while a lack of accountability across the public sector coupled with ineffective public institutions hurts these perceptions." Cited at: Transparency International (2013b), Press Releases.

⁵¹ World Health Organisation (2013), Health, health systems and economic crisis in Europe. Impact and policy implications, Summary, Draft for Review, pp.4, 7; European Commission (2013), Commission Staff Working Document, Assessment of the 2013 National Reform Programme for Greece, p. 11. Key informant interview ORG, GR04. Cited in: IMPACT National Report Greece, Chapter 4.1.3.

⁵² United Nations Committee on the Rights of the Child (2012), Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Greece, CRC/C/GRC/CO/2-3, 13 August 2012, p.8-9. Cited in: IMPACT National Report Greece, Chapter 4.1.1. European Commission (2013), Commission Staff Working Document, Assessment of the 2013 National Reform Programme for Greece, p. 11. Cited in: IMPACT National Report Greece, Chapter 4.1.3.



The shortage of public funds has led to a disruption of school transportation, although transportation from remote areas is to be offered free of charge by law. The responsibility to cover these costs was transferred from the central government to the municipalities, which have, however, declared that they are financially unable to allocate the required budget. At the onset of the school year 2012-13, the transportation company stopped operating as it had not been paid for years. As a result, children who are not able to cover the costs or organise transportation themselves risk dropping out of school.⁵³

In Italy, the government has cut public budget allocation for social policies and the financial support provided to the regions was reduced by 85% between 2008 and 2011.⁵⁴ Children and families are increasingly affected by poverty, especially in the Southern regions. According to Eurostat⁵⁵, 28.9% of children were at risk of poverty or social exclusion in Italy in 2011. Two out of three children live in relative poverty and half of the children growing up in conditions of absolute poverty are living in the Southern Italian regions.⁵⁶ Families with three or more children and those with a migration background have been disproportionately affected by the increasing rates of poverty over the past years.⁵⁷ Children of non-national families are considered to be at a higher risk of socio-economic marginalisation, which might also imply a higher risk of exploitation.⁵⁸

The Council of Europe Commissioner for Human Rights reported in 2012 that the fiscal austerity measures implemented in Portugal have disproportionately affected the most vulnerable social groups, especially children, the elderly, and Roma. The child care benefits were reduced significantly in 2010 and again in 2012, which further deteriorated the financial situation of families. In the health sector, the fees charged for accessing medical care appear to be hindering the access of children over 12 years old, raising equity issues. The local Commissions for the Protection of Children and Young People noted a stark increase of cases in 2012. Yet, due to budgetary constraints, there are concerns that the first line entities and the Commissions for the Protection of Children and Young People may not be as fully functional as before.⁵⁹

In all four countries, the unemployment rates are high and young people, women and single parents are particularly affected. Where employment opportunities are scarce, there is a risk that the people accept increasingly precarious and potentially exploitative working conditions. According to statistics published by Eurostat in October 2013, Greece has with 27.6% the highest unemployment rate within the EU. In Cyprus, the rate is 17.1%, it is 16.3% in Portugal and 12.5% in Italy. Young people under 25 years old are disproportionately affected by unemployment as 43.9% of the young people are unemployed in Cyprus, 57.3% in Greece, 40.4% in Italy, and 36.9% in Portugal.⁶⁰

⁵³ Interministerial Decision 35415/2011 on the transportation of students of primary and secondary education provided by the municipalities. The Interministerial Decision was signed among the Ministry of Interior, Ministry of Finance, Ministry of Education, Lifelong Learning and Religion and Ministry of Infrastructure, Transportation and Networks, available at: http://www.ypes.gr/userfiles/loff9297-f516-40ff-a70e-eca84e2ec9b9/apof_kya_35415_28072011.pdf. The Greek Ombudsman (2012), Parallel Report to the UN Committee on the Rights of the Child, Findings and recommendations of the Independent Authority "The Greek Ombudsman" on the implementation of Children's Rights in Greece, July 2003 – December 2011, p.22. Cited in: IMPACT National Report Greece, Chapter 4.2.1.

⁵⁴ Gruppo CRC - Gruppo di Lavoro per la Convenzione sui diritti dell'infanzia e dell'adolescenza (2013), VI. Rapporto di aggiornamento sul monitoraggio della Convenzione sui diritti dell'infanzia e dell'adolescenza in Italia 2012-2013. Cited in: IMPACT National Report Italy, Chapter 4.1.3.

⁵⁵ Eurostat (2012), Statistics in Focus, 9/2012, available at: http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-12-009/EN/KS-SF-12-009-EN.PDF (accessed February 2013). Cited in: IMPACT National Report Italy, Chapter 4.1.3.

⁵⁶ Save the Children (2011), Atlante dell'infanzia a rischio, available at: <http://atlante.savethechildren.it/sfogliaAtlante.html#.UST4NeieO1s> (accessed February 2013). Cited in: IMPACT National Report Italy, Chapter 4.1.3.

⁵⁷ Ministero del Lavoro e delle politiche Sociali. (2012). Rapporto sulle politiche contro la povertà e l'esclusione sociale. Anni 2011 – 2012. Available at: http://www.lavoro.gov.it/NR/rdonlyres/64F52EE9-A07C-48CC-B16B-C76168EEFEB5/0/RAPPORTO_2011_2012_Fabbris.pdf (accessed: October 2013)

⁵⁸ Ministero del Lavoro e delle politiche Sociali. (2012). Rapporto sulle politiche contro la povertà e l'esclusione sociale. Anni 2011 – 2012. Available at: http://www.lavoro.gov.it/Strumenti/StudiStatistiche/Documents/Rapporto_CIES_2011_2012_2.pdf (accessed: October 2013)

⁵⁹ Muiznieks, Nils (2012), Report by Nils Muiznieks, Commissioner for Human Rights of the Council of Europe, following his visit to Portugal from 7 to 9 May 2012. See also: Eurochild (2012), How the Economic and Financial Crisis is Affecting Children and Young People in Europe, Written by Sandy Ruxton, December 2012. Cited in: IMPACT National Report Portugal, Chapter 4.Survival.2.

⁶⁰ Eurostat (2013c), Euro Area Unemployment Rate at 12.2%, September 2013, News Release 159/2013 - 31 October 2013, pp. 1, 3.



The effects of the crisis might undermine important progress for children that the countries had previously achieved. In Portugal, for instance, a marked success had been noted in the country's efforts to reduce child labour since 1999. Today, the fiscal austerity measures, growing unemployment and the shrinking sources of family income are considered to create a risk that families might think about children's participation in income generation. In the absence of alternatives, some may consider resorting to involving children in potentially harmful or exploitative forms of labour, notably in the informal sector and agriculture. Since the beginning of the crisis, there have been indications that some children migrated to other EU Member States to find work.⁶¹ There are also indications of cases of Portuguese nationals who were trafficked and exploited abroad.⁶² Although these cases were not reported in connection to the crisis, they might be related.

In Italy, the crisis is considered to create an environment in which human trafficking continues as a 'structural and consolidated reality'. Increasing levels of poverty and patterns of discrimination may raise the risk of exploitation, mainly in the informal sector, including in agriculture, the construction industry, sheep-farming, home care, and in prostitution.⁶³

Several key informants from within the public administration and service providers in Italy noted a tendency that the reduced budget available for the child protection sector might be lowering the quality of child protection services and raising the threshold for interventions. Child protection measures tend to be increasingly focused on responding to higher levels of distress and emergencies. Informants expressed the concern that early interventions in cases that would require longer-term monitoring and preventive services are financially not sustainable.⁶⁴ In Greece, a key informant noted that NGOs are struggling to maintain the status quo with the limited resources available. More stability and more resources would be needed for staff to dedicate time to progressive planning and innovation.⁶⁵

As a consequence of the crisis, a rising nationalistic trend is being observed in Greece where growing levels of xenophobic violence are placing migrants and ethnic minorities at risk. Between August 2009 and May 2012, Human Rights Watch documented 51 serious attacks by vigilant groups, mainly in the centre of Athens. The attacks are directed against Roma, asylum seekers and other migrants, including unaccompanied children. Victims of xenophobic attacks are also facing obstacles in reporting crimes. In some of the reported cases, the police did not intervene promptly or discouraged victims from filing official complaints.⁶⁶

The extremist right wing political party 'Golden Dawn' is considered to be connected to these racist attacks against migrants. It is the fourth largest party in Parliament and has gained support from 21% of the population by end 2012. The party offers social support programmes and assistance, food and clothes, however, only to Greek nationals. In response to the growing violence, specialised regional departments were established in December 2012 to address racist violence. They operate a hotline

⁶¹ Muižnieks, Nils (2012), Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Portugal from 7 to 9 May 2012. European Committee of Social Rights (2012), Conclusions 2011 (Portugal). Cited in: IMPACT National Report Portugal, Chapter 4.Development.3

⁶² GRETA (2013), Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Portugal. Cited in: IMPACT National Report Portugal, Chapter 4.Protection.4.

⁶³ Caritas Italiana, Coordinamento Nazionale Comunità Accoglienza (2013), Anticipazioni su Punto e a Capo Sulla Tratta, Presentazione del 1° rapporto sulla tratta delle persone e grave sfruttamento, p. 3. Cited in: IMPACT National Report Italy, Chapter 4.4.3.

⁶⁴ Key informant interviews: ORG, IT 08; GOV, IT 10; MUN, IT 03; MUN, IT 02. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

⁶⁵ Key informant interview ORG, GR04. Cited in: IMPACT National Report Greece, Chapter 4.3.1.

⁶⁶ Human Rights Watch (2012), Periodic Review of Greece, p.10. Human Rights Watch (2012), World Report 2012, Events of 2011, USA, p.447. United Nations Committee on the Elimination of Racial Discrimination, 2009, Consideration of Reports Submitted by States Parties under Article 9 of the Convention, Concluding observations of the Committee on the Elimination of Racial Discrimination, CERD/C/GRC/CO/16-19, 14 September 2009, p. 3-4. United States Department of State, Bureau of Democracy, Human Rights and Labor (2012), Country Reports on Human Rights Practices for 2012: Greece, 2012 Human rights Report, p.6, 27. Cited in IMPACT National Report Greece, Chapter 3.



to receive complaints about racist crimes and inform victims about their rights. They also investigate complaints, collect data, and report cases to the Prosecutor's Office.⁶⁷

Although the majority of the population in each of the four countries is affected by the financial and economic crisis, a study on the assets of private households in the Euro region published by the European Central Bank in 2013, reports that the median net wealth of households is comparatively high in Cyprus, Italy and Greece, and also Portugal is not ranked among the lowest Euro countries. The distribution of wealth across households is however extremely uneven.⁶⁸ These findings attest to the importance of strengthening the capacity of the public administrations to reduce inequality and to balance their measures for generating revenues for public interests, which is also a precondition for allocating budget to child rights policy in light of CRC Article 4.

Considering the concept of vulnerability described in the previous chapter, in times of crisis it is not only the shocks that determine vulnerability but also the resources available to handle and balance these shocks. The capability of the national administrations to handle the crisis is therefore a key determinant for reducing the harmful impact on children, families and the society at large. Investing in children, including in times of crisis, constitutes an important strategy for balancing the impact of the crisis in the longer term and supporting the societies in their transition from situations of instability, rising violence and poverty towards more stable situations and sustained development.⁶⁹ An important resource that all four countries can draw on is the dedication and commitment of local staff and professionals working with and for children, including teachers, social workers and municipal authorities. Innovative initiatives are being reported from each of the four countries, including from the local levels, and need to be supported by the central government, including through training, information and consultation.

B. THE SOUTHERN EUROPEAN COUNTRIES AS MIGRATION ENTRY POINTS

The Mediterranean countries are the main entry points for migrants arriving across the sea or across the land border between Greece and Turkey. The European Agency for the Management of Operational Cooperation at the External Borders of the EU (FRONTEX) reported 44,000 irregular crossings over the land border between Greece and Turkey during the first nine months of 2012. The European support to the border control was then scaled up so that the land crossings reduced significantly. A border fence of 12 km length was established, which has been criticised by the Council of Europe and the UN Special Rapporteur on the Rights of Migrants. According to the Greek police, only 764 persons were identified having crossed the land borders irregularly between January and September 2013. The closure of the land border may have pushed more migrants to choose the higher risk sea route across the Mediterranean.⁷⁰

⁶⁷ Greece: Presidential Decree 132/2012 on the introduction of departments and bureaus combating racist violence – Amendments on regulations of Presidential Decree 14/2001, Official Gazette of the Hellenic Republic, Vol. A', Issue 239, 11 December 2012. European Union Agency for Fundamental Rights (2012), Annual Report 2012, Fundamental Rights: Challenges and achievements in 2012, Publications Office of the European Union, Luxembourg, p. 180. Cited in IMPACT National Report Greece, Chapter 3.

⁶⁸ European Central Bank (2013), The Eurosystem Household Finance and Consumption Survey, Results from the first wave, Statistics Paper Series No. 2, April 2013, Eurosystem Household Finance and Consumption Network, pp. 72-87, see especially p. 76. The study assessed, among others, households' net wealth, which is defined as the difference between households' total assets and total liabilities. The median net wealth marks the level at which half of the households within the country have a higher net wealth and half have a lower net wealth. It needs to be read in relation to the mean net wealth in order to understand how equally the wealth is distributed among households within the country. See: p.76. The study notes several biases concerning the comparability of data, including due to the composition of households in different European countries. Specific biases are also noted with regard to the comparability of the data concerning Cyprus. See pp. 13-21.

⁶⁹ See also Chapter 6.

⁷⁰ FRONTEX, European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, FRAN Quarterly, Issue 3, July–September 2012, Warsaw, January 2013, p. 56. European Union Agency for Fundamental Rights (2012), Annual Report 2012, Fundamental Rights: Challenges and achievements in 2012, Publications Office of the European Union, Luxembourg, p. 78-79. PROASYL (2013), Pushed Back, Systematic human rights violations against refugees in the Aegean Sea and at the Greek-Turkish land border, PROASYL-Förderverein und PROASYL-Stiftung, 7 November 2013, p. 18. Cited in: IMPACT National Report Greece, Chapter 4.3.1.



During the first nine months of 2013, 8,052 persons were registered by the Greek authorities after reaching Greece by sea, compared to 1,329 persons in the same period in 2012. The total number of migrants crossing the sea, and those dying on the sea, remain unknown. Only individual incidents have been documented and reported: On 6 September 2012, 61 persons, including 31 children, died off the coast of Izmir, Turkey. In July 2013, 94 persons died or went missing in the Aegean Sea, including 13 children and 2 pregnant women. The migrants who survive the journey risk being denied access to EU territory as authorities have resorted to collective expulsions, in breach of national, European and international law. Allegations of non-assistance of migrants at sea have also been reported.⁷¹

Although the Mediterranean countries are considered important entry points for migrants and asylum seekers from outside the EU, statistics show that the number of persons applying for asylum is comparatively low in all four countries. According to Eurostat data published in December 2013, the total number of asylum seekers registered in the countries over the 12 month period from July 2012 to June 2013 was 360 in Portugal; 1,410 in Cyprus; 9,160 in Greece; and 20,905 in Italy. An EU-wide comparison reveals that the ratio of asylum seekers received per million inhabitants in the same time frame is the lowest in Portugal with 10 persons and in Italy with 100 persons per million inhabitants. Greece and Cyprus rank in the medium level with a ratio of 165 and 275 asylum seekers respectively. The highest rates are found in Sweden, Hungary and Malta with 955, 950 and 825 asylum seekers per million inhabitants and Austria, Belgium and Luxembourg, amongst others, receive a ratio of 450 and 550 persons.⁷²

During 2012, the rate of children among all asylum seekers registered in the four countries ranged from 5.3% in Greece, 12.3% in Cyprus, 11.6% in Italy, to 18.4% in Portugal.⁷³ Official data on unaccompanied asylum seeking children are available from Portugal, which received 31 asylum applications from unaccompanied children in 2012, and 46 during the first nine months of 2013. The children were mainly from African countries and from Syria.⁷⁴ From the other countries, the data on unaccompanied asylum seeking children are scattered and not always available or comparable between the various data sources. In Greece, the European Migration Network reported a total of 98 unaccompanied asylum seeking children registered between January and October 2012.⁷⁵ In Italy, the official data from the Ministry of Interior are not disaggregated by age.⁷⁶ According to data available from other sources, the number of applications from unaccompanied children amounted to 306 in 2010 and 827 in 2011. In Italy, the Central Service of the System of Protection for Asylum-Seekers and Refugees (SPRAR), reports rather low numbers of unaccompanied asylum seeking children hosted at reception centres with 253 children in 2010 and 312 in 2011. The children were mainly from Afghanistan and African countries and over half of them were between 16 and 17 years old. Unaccompanied asylum seeking children are however also received in other structures but consolidated

⁷¹ European Union Agency for Fundamental Rights (2012), Annual Report 2012, Fundamental Rights: Challenges and achievements in 2012, Publications Office of the European Union, Luxembourg, pp. 78-79. PROASYL (2013), Pushed Back, Systematic human rights violations against refugees in the Aegean Sea and at the Greek-Turkish land border, PROASYL-Förderverein und PROASYL-Stiftung, 7 November 2013, pp. 4-6, 8-9, 14, 18, 33. Cited in: IMPACT National Report Greece, Chapter 4.3.1.

⁷² Eurostat (2013b), Data in Focus, Asylum applicants and first instance decisions on asylum applications: second quarter 2013, Population and Social Conditions, Author: Alexandros Bitoulas, p. 4.

⁷³ Eurostat (2013a), Data in Focus, Asylum applicants and first instance decisions on asylum applications: 2012, Population and Social Conditions, Author: Alexandros Bitoulas, p. 6.

⁷⁴ Cited in: IMPACT National Report Portugal, Chapter 4.Participation.1.

⁷⁵ European Migration Network (2013), Greece: Annual Policy Report 2012, English version, The Annual Policy Report is co-funded by the EU and the Greek Ministry of Interior in the context of the European Migration Network, Athens, Greece, p. 75. Cited in: IMPACT National Report Greece, Chapter 4.3.1.

⁷⁶ See: Quaderno statistico per gli anni 1990-2011, available at: http://www.interno.gov.it/mininterno/export/sites/default/it/assets/files/21/0551_statistiche_asilo.pdf (accessed July 2013). Cited in: IMPACT National Report Italy, Chapter 4.4.4.



official data on their total number are not available.⁷⁷

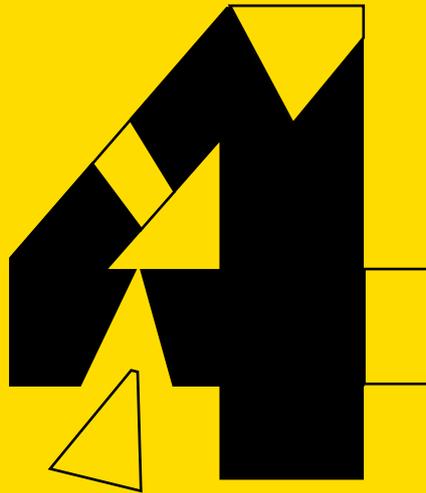
In Italy and Greece, there are also considerable numbers of unaccompanied children from third countries who do not apply for asylum. Between January and May 2013, 1,953 unaccompanied children were identified in Greece while only 98 applied for asylum in the period of January to October of the same year.⁷⁸ In Italy, the number of unaccompanied children not seeking asylum in 2011 and 2012 ranged between approximately 7,100 and 7,400 per year. In the first seven months of 2013, 7,402 unaccompanied non-asylum-seeking children were reported, mostly boys between 16 and 17 years old. Most of the children came from Bangladesh (24,3%), Egypt (19%), Albania (12,7%) and Afghanistan (8%). As there is no standardised procedure for the identification of unaccompanied children who are third-country nationals, the official data are not considered consistent or reliable.⁷⁹

⁷⁷ ASGI - Associazione di Studi Giuridici sull'Immigrazione (2011), *Il diritto alla protezione: la protezione internazionale in Italia quale futuro? Studio sullo stato del sistema asilo in Italia e proposte per una sua evoluzione*, FONDO EUROPEO PER I RIFUGIATI 2008-2013, Programma annuale 2009 - Azione 2.1.A., pp. 178-181; Data 2008-2010. United Nations High Commissioner for Refugees (2012), *Protecting Children on the Move, Addressing protection needs through reception, counseling and referral, and enhancing cooperation in Greece, Italy and France*, p. 9; data 2011. SPRAR- Sistema di Protezione per Richiedenti Asilo e Rifugiati (2012), *Rapporto annuale del Sistema di Protezione per richiedenti asilo e rifugiati*. Anno 2011/2012, SPRAR, Rome, 2012. Cited in: IMPACT National Report Italy: Chapter 4.4.4.

⁷⁸ European Migration Network (2013), *Greece: Annual Policy Report 2012*, English version, *The Annual Policy Report* is co-funded by the EU and the Greek Ministry of Interior in the context of the European Migration Network, Athens, Greece, p. 75. Cited in: IMPACT National Report Greece, Chapter 4.3.1.

⁷⁹ Directorate - General on Immigration and Integration Policies of the Ministry of Labour and Social Policies, *National report on unaccompanied minors*, available at: http://www.lavoro.gov.it/md/AreaSociale/Immigrazione/minori_stranieri/Documents/Report%20MSNA%2031-07-2013.pdf (accessed September 2013). Cited in: IMPACT National Report Italy: Chapter 4.4.4.





CHILD TRAFFICKING: LIMITATIONS OF CURRENT NATIONAL DEFINITIONS

All four countries studied by IMPACT have ratified the UN Trafficking Protocol and all except Greece have ratified the Council of Europe Convention on Action Against Trafficking in Human Beings. The international definitions of child trafficking as afforded under the UN Trafficking Protocol Article 3 and the Council of Europe Convention Article 4 have therefore informed the development of the national criminal laws on child trafficking.⁸⁰ The 2011 European Trafficking Directive, which has to be transposed by all four countries, expands the concept of trafficking by explicitly adding exploitation in forced begging and in criminal activities to the recognised forms of exploitation.⁸¹ Notwithstanding the guidance deriving from these international and regional standards, the concepts and scope of child trafficking definitions differ significantly between the four countries. There is thus far no unified concept or understanding of child trafficking or a child victim.

In Cyprus, the Law on Combating Trafficking and Exploitation of Human Beings and Protection of Victims criminalises trafficking in human beings. It includes a specific section that defines the offence of child trafficking as follows “whoever recruits, transports, transfers, receives, hides, exchanges or transfers control over a child, for the purpose of exploitation ...”.⁸² The law is not limited to specific forms of exploitation. This broad provision offers the opportunity to relate to any form of exploitation prohibited under national law and would therefore be potentially inclusive and protective for children as the CRC forms part of the national legislation and prohibits exploitation in any context and in any form.

The Greek Penal Code provides for two articles that criminalise the act of human trafficking. One refers to ‘slave trade’ and the other one specifically to sexual exploitation. Despite the ratification of international standards and the transposition of the 2011 European Trafficking Directive, both articles refer to the use of violence, threats or coercion and fall therefore short of establishing the offence of child trafficking irrespective of the means used. In addition to the penal provisions, the immigration law provides for a definition of a victim of trafficking. For immigration and residence purposes, a victim of trafficking is considered a victim of different crimes, including trafficking in human beings, pande-

⁸⁰ See the Glossary in Chapter 7 for further details.

⁸¹ The European Parliament and Council of the European Union (2011), Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, Official Journal of the European Union, Brussels, 15 April 2011, Article 3.

⁸² Cyprus, The Law on Combating Trafficking and Exploitation of Human Beings and Protection of Victims, 2007(87(I)/2007), last amended 2012, available at: http://cylaw.org/nomoi/enop/ind/2007_1_87/section-sc8759e9a4-1351-b9ae-e9b3-9a67cc4dba8d.html (accessed December 2013). Cited in: IMPACT National Report Cyprus, Chapter 4.4.3.

ring, and procurement, regardless of the person's mode of entry into Greece.⁸³

The Italian Penal Code criminalises trafficking in human beings, including children, in Articles 600-602. Article 600 criminalises the act of keeping a person in a state of 'slavery' or 'servitude' or bringing a person into such a state by other means than those described in Article 601. It is therefore considered to criminalise the 'result' of trafficking. Article 601 criminalises the act of trafficking of a person who is already in a state of 'slavery' or 'servitude' and the compulsion or induction of a person who had not been in such a state before, to enter, to remain in, or to leave Italian territory, or to move within the country, by means of force, threat, deceit, fraud, abuse of authority or a position of vulnerability, or by promising or giving payments or benefits to obtain the consent of the person who has control over the victim, with the aim of bringing the victim into a state of 'slavery' or 'servitude'. Article 602 criminalises single acts of buying and selling a person who is in a state of 'slavery' or 'servitude'. It refers to cases that do not constitute 'trafficking'.⁸⁴ As in Greece, also the Italian law differs from the international standard by not providing that a child can be trafficked irrespective of the means used.⁸⁵ The strong relation to slavery makes it difficult to apply the law, especially for cases of child trafficking where forms of exploitation may be much more subtle and not coerced.

“It is basically a ‘demonstrative law’ because in practice it is too complex and too difficult for a prosecutor to apply it.” (Italy)⁸⁶

In Portugal the Penal Code criminalises child trafficking in a distinct provision. It is defined as “by any means recruiting, enticing, transporting, harbouring or housing a child or transferring, offering or accepting him/her for the purpose of exploitation, including sexual exploitation, labour exploitation, begging, slavery, the removal of organs, adoption or exploitation of other criminal activities.”⁸⁷

The provision of the Portuguese Penal Code is noteworthy as it criminalises child trafficking for the purpose of labour exploitation, among others, whereas the international and many national definitions refer in this context to 'forced labour'. As has been noted by previous research, the criminalisation of child trafficking for forced labour creates an ambiguity within the law, as the use of force should not be considered relevant for the act of child trafficking. The use of force should, in consequence, also not be considered relevant for defining the exploitative situation.⁸⁸ The Portuguese definition is therefore inclusive by referring to situations of labour exploitation of a trafficked child that do not qualify as forced labour. With regard to the exploitation in begging, the Portuguese law provides also a higher standard of protection for children as the exploitation in begging is criminalised, whereas European

⁸³ Article 1, case (i), referring to Articles 323, 323A, 349, 351 and 351A of the Penal Code. Law 3386/2005 on Entry, residence and integration of third-country nationals in the Greek territory, Official Gazette of the Hellenic Republic Vol A', No.212), as amended by Laws 3448/2006 (Official Gazette of the Hellenic Republic Vol A' No.57), 3536/2007 (Official Gazette of the Hellenic Republic Vol A' No.42), 3613/2007 (Official Gazette of the Hellenic Republic Vol A' No.263), 3731/2008 (Official Gazette of the Hellenic Republic Vol A' No.263), 3772/2009 (Official Gazette of the Hellenic Republic Vol A' No.112) and 3801/2009 (Official Gazette of the Hellenic Republic Vol A' No.163). Cited in: IMPACT National Report Greece, Chapter 4.4.3.

⁸⁴ Italian Penal Code, Articles 600-602. European Union Agency for Fundamental Rights (2009(a)), Thematic Study on Child Trafficking: Italy, Vienna. See also: Nicodemi F. (2011), La normativa in materia di tratta di persone, I Quaderni del CESVOT, No. 53, pp. 93-135. Cited in: IMPACT National Report Italy: Chapter 4.4.4.

⁸⁵ European Union Agency for Fundamental Rights (2009(a)), Thematic Study on Child Trafficking: Italy, Vienna. Cited in: IMPACT National Report Italy: Chapter 4.4.4.

⁸⁶ Key informant interview ORG, IT 07. Cited in: IMPACT National Report Italy: Chapter 4.4.3.

⁸⁷ Portugal: Penal Code (Law no. 59/2007), Government Gazette, 1st Series No. 170, 4 September 2007, amended by Law no. 60/2013 of 23 August 2013, Article 160, Chapter IV “Crimes against personal freedom”, Article 160(2). Cited in: IMPACT National Report Portugal, Chapter 4. Protection.3.

⁸⁸ Council of the Baltic Sea States, Child Centre, Expert Group for Cooperation on Children at Risk (2013), Children Trafficked for Exploitation in Begging and Criminality: A challenge for law enforcement and child protection, Stockholm, pp. 13-14, 39.

law refers to exploitation in 'forced begging' only.⁸⁹

The identification of victims of trafficking is handled differently in the four countries. In Cyprus and Portugal, the police are responsible for the official recognition of a person as a victim of trafficking. In Cyprus, the police conducts an interview with the person concerned and, on that basis, takes the decision on whether the person shall be recognised as a victim of trafficking.⁹⁰ In Portugal, the identification of victims is associated to their participation in the criminal investigation and court proceeding, which has been criticised by the Council of Europe Group of Experts on Action Against Trafficking in Human Beings (GRETA). If the police investigation remains inconclusive or the necessary evidence for an identification of a victim does not exist, the National Rapporteur on Trafficking in Human Beings may, when justified by the situation of the victim and especially in cases of high vulnerability, ask the Ministry of the Interior to grant the victim status and the related assistance. According to the Expert Group GRETA, this procedure has however not yet been applied.⁹¹

In Greece, the official identification and verification of a child's status as a victim of trafficking is considered rare. In 2005, the Government of Greece signed a Memorandum of Cooperation with IOM and 12 NGOs in order to improve their cooperation for the identification and referral of victims of trafficking. The relevant procedures are however not yet considered adequate.⁹²

“The identification of children victims of trafficking is very difficult. ... The process is too long and difficult. First the child needs to be informed and then follows the reflection period. Interpretation, guardianship, etc. are necessary so it becomes difficult. We had some so obvious cases of children victims of trafficking, who were never identified as such.” (Greece)⁹³

In Italy, the status of a victim of trafficking is applied mostly to non-nationals in relation with the residence permit granted to persons who agree to participate in a social assistance programme and accept the relevant mandatory conditions under Article 18 of the Immigration Act. Article 13 provides temporary assistance to victims of trafficking and could be applied also to nationals. It refers to conditions of slavery, which are difficult to prove and therefore barely applied for child trafficking cases. National children who are victims of trafficking or potential victims are not necessarily registered as such.⁹⁴

CHILD VICTIMS OF TRAFFICKING: OFFICIAL DATA

Considering the differences in the national definitions and concepts of child trafficking and the challenges of identification, national data on child trafficking cases cannot be compared across the four countries and are not considered conclusive.

⁸⁹ The 2011 EU Directive on Trafficking in Human Beings provides that “the exploitation of begging, including the use of a trafficked dependent person for begging, falls within the scope of the definition of trafficking in human beings only when all the elements of forced labour or services occur”. See: The European Parliament and Council of the European Union (2011), Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, Official Journal of the European Union, Brussels, 15 April 2011, par. 11.

⁹⁰ See: Christodoulou, Constantina et al. (2011), Trafficking for Labour in Cyprus, Report prepared in the frame of the project: Combating trafficking in human beings – going beyond, coordinated by CCME, Re-Integration Centre for Migrant Workers. Cited in: IMPACT National Report Cyprus, Chapter 4.4.3.

⁹¹ GRETA (2013), Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Portugal, p. 7. Cited in: IMPACT National Report Portugal, Chapter 4. Protection.4.

⁹² United Nations High Commissioner for Refugees (2011), Trafficking in Persons Report, Greece. Cited in: IMPACT National Report Greece, Chapter 4.4.4.

⁹³ Key informant interview GOV, GR08. Cited in: IMPACT National Report Greece, Chapter 4.4.4.

⁹⁴ Article 18 of the Immigration Act and Article 13 of Law n°. 228/2003. Law n°. 94/2009, Article 1, para. 29. See also: Miazzi, 2011, p. 121. Key informant interview GOV, IT 05. Cited in: IMPACT National Report Italy: Chapter 4.4.3. and Chapter 4.4.4.

In Cyprus, the number of victims of trafficking identified during 2012 was 37 persons (11 men and 26 women), and 14 persons during the first eight months of 2013 (3 men, 11 women). During the past three years, three cases of child trafficking were identified. All three children were girls from Cameroon.⁹⁵

In Greece, a uniform method for data collection and the registration of cases has not yet been established and the data collected by different ministries and institutions are thus not considered comprehensive, reliable and comparable. As data are not consistently disaggregated by age, it is not possible to deduct the total number of child victims of trafficking identified. According to a report from ProAsyl, 7 children were identified as victims of trafficking or considered potential victims in 2008, 13 in 2009 and 17 in 2010.⁹⁶ The anti-trafficking police department reported that five children were officially registered as victims of trafficking in 2012, whereas no child victim was identified in 2013. All children registered in 2012 were girls aged between 16 and 17 years old.⁹⁷

As in Greece, also the data available from official sources in Italy are considered incomplete. A standardised methodology for data recording is missing although various national institutions are involved in collecting data. Data are collected from the criminal justice system and from the Department for Equal Opportunities at the Presidency of the Council of Ministers, which is responsible for the social programmes for victims. According to UNODC, the number of child victims of trafficking identified by the criminal justice system in Italy was 36 in 2008, 20 in 2009 and 46 in 2010. The majority of victims of trafficking (adults and children) identified between 2007 and 2010 were from Romania (427) and Nigeria (383). UNODC reported that 176 were Italian nationals.⁹⁸

In 2011, 39 children participated in the social programmes for victims of trafficking under Articles 13 and 18, 32 girls and 7 boys. In 2012, a total of 68 children were enrolled in these programmes, 57 girls and 11 boys. The boys and girls had been exposed to sexual exploitation, labour exploitation, as well as exploitation in robbery, begging, and drug selling.⁹⁹

Save the Children Italy reported in 2011 and 2013 patterns of exploitation concerning children from different national groups. Among the children exposed to sexual exploitation, the majority were girls from Nigeria and Romania. Boys from North African and Sub-Saharan African countries were mainly exploited in the drug trade, as well as in agriculture together with boys from India and Bangladesh. Egyptian boys were considered to be at high risk of exploitation in the construction industry, small shops, restaurants, wholesale markets and also in agriculture. The children exploited in begging were mostly Roma and many of them came from Southern European countries.¹⁰⁰

⁹⁵ ANT1 News - The Report on Human Trafficking (04/11/2013) available at: <http://www.ant1iwo.com/kypros/2013/11/04/apokalyptiko-h-ekuesh-gia-thn-emporiam-pr/> (accessed on 20 November 2013). Phileftheros (newspaper) - 314 victims of Human Trafficking in Cyprus since 2008 (22/10/2013) available at: <http://www.philenews.com/el-gr/koinonia-eidiseis/160/167737/sta-314-ta-thyma-emporias-prosoponstin-kypro-apo-to-2008> (accessed on 20 November 2013). Cited in: IMPACT National Report Cyprus. See also: European Commission, Together Against Trafficking in Human Beings, Cyprus, 8 October 2013, available at: <http://ec.europa.eu/anti-trafficking/showNIPsection.action?country=Cyprus> (accessed January 2014). Council of Europe, Group of Experts on Action Against Trafficking in Human Beings, Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Cyprus, First Evaluation Round, GRETA(8)2011, Strasbourg, 12 September 2011, available at: http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2011_8_FGR_CYP_en_final.pdf (accessed January 2014), par. 114.

⁹⁶ European Union Agency for Fundamental Rights (2008), Thematic Study on Child Trafficking, August 2008, p. 15-17. PROASYL (2013), Pushed Back, Systematic human rights violations against refugees in the Aegean Sea and at the Greek-Turkish land border, PROASYL-Förderverein und PROASYL-Stiftung, 7 November 2013, p. 35-37. Cited in: IMPACT National Report Greece, Chapter 4.4.4.

⁹⁷ Data provided by the Anti-trafficking Police Department as of 13 December 2013. Cited in: IMPACT National Report Greece.

⁹⁸ United Nations Office on Drugs and Crime (2012), Global Report on Trafficking in Persons, Country Profiles - Europe and Central Asia, p. 62. Cited in: IMPACT National Report Italy: Chapter 4.4.4.

⁹⁹ Data provided by the Technical Secretary on Trafficking at the Department for Equal Opportunities, Presidency of the Council of Ministers, Italy. Cited in: IMPACT National Report Italy: Chapter 4.4.4.

¹⁰⁰ Save the Children Italia (2011), *Minori stranieri in Italia, Secondo Rapporto Annuale*, available at: http://images.savethechildren.it/IT/ff/img_publicazioni/img133_b.pdf (accessed October 2013). Save the Children Italia (2012), *Piccoli Schiavi Invisibili*, available at: http://images.savethechildren.it/IT/ff/img_publicazioni/img185_b.pdf (accessed October 2013). Cited in: IMPACT National Report Italy. Chapter 4.4.4.

In Portugal, 17 children, 14 of whom were girls, had been identified as victims of human trafficking between 2008 and 2011. Most of the cases were related to sexual exploitation, but there were also three cases of trafficking for labour exploitation and three for attempted adoption. Even though most of these children were non-nationals, especially from Romania and Brazil, five Portuguese children were also identified as victims of trafficking. The median age was 14 years.¹⁰¹

The Portuguese Observatory on Trafficking in Human Beings reported a total of 125 human trafficking cases in 2012. By May 2013, a total of 36 cases involving child victims were under investigation as child trafficking cases. Among these, 31 regarded labour exploitation (coerced theft) and four regarded sexual exploitation. Among the children exploited in labour, 13 were female and 18 were male. Three quarters of them were under 10 years old. The four cases of sexual exploitation involved girls aged between 16 and 17. The nationalities of the children were not fully confirmed but many of them were considered to come from South Eastern European countries and some from Nigeria.¹⁰²

In all four countries, the number of child trafficking cases that have been officially identified over the past years is comparatively low. In light of general budgetary constraints and considering that shelters for victims of trafficking are highly cost-intensive, it is legitimate and cost-effective that the countries consider also options for integrating services for child victims of trafficking into mainstream child protection structures, as will be discussed further in Chapter 5.c.

¹⁰¹ GRETA (2013), Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Portugal. Cited in: IMPACT National Report Portugal, Chapter 4.Survival.1.

¹⁰² Observatório do Tráfico de Seres Humanos (2013), Relatório TSH 2012, Lisboa, OTSH/DGAI. Cited in: IMPACT National Report Portugal, Chapter 4.Survival.1.



FROM INTENTION TO IMPLEMENTATION: THE CAPABILITY OF PUBLIC ADMINISTRATIONS TO TRANSLATE CHILD RIGHTS STANDARDS INTO POLICY AND PRACTICE

This chapter applies the IMPACT approach to the four countries under study. It engages in a critical discussion of the capability of the public administrations to plan and implement child rights policy in a way that is inclusive, appropriate, effective, coherent and compliant with international standards. The analysis is conducted from a structural perspective aiming to understand the opportunities and challenges inherent within the public administrations and the implications for risk and resilience of exploitation and trafficking.

A. OPPORTUNITIES: THE STATUS OF THE CRC AND ITS MONITORING MECHANISMS

THE STATUS OF THE CRC AS AN INTEGRAL PART OF NATIONAL LAW

The UN Convention on the Rights of the Child was ratified by all four countries in the early 1990s, soon after its adoption. The Convention was fully incorporated as an integral part of the national law of each of the four countries. It can be applied and invoked directly at court and shall take precedence whenever other laws are in conflict or provide lower standards.¹⁰³ The Convention has therefore a strong legal status in all four countries and offers additional safeguards for the human rights of the child in the legal domain.

¹⁰³ Cyprus: Commissioner for the Protection of Children's Rights, 2011, pp. 5, 12. Greece: Article 28 of the Greek Constitution; Roukounas, 2004, p. 159. Italy: Law n°. 176/1991; Moro 2008, p. 13; Cassese, 2003, p. 272. Portugal: Art. 8 (1) and (2) of the Constitution of the Republic of Portugal; Decree of the President of the Republic 49/90, of 12 September and published in the Official Gazette (Diário da República, I Série A, n.º 211/90).

These additional safeguards can only take effect, if the Convention is actively used as a national law, if it is invoked and applied at courts, by lawyers, prosecutors and judges. In Italy, for instance, the Convention was cited in the case law of the Italian Supreme Court and Constitutional Court and influenced decisions for the benefit of children, including non-nationals and migrants.¹⁰⁴

The CRC promotes a holistic vision of the child and values the human rights of the child as inter-related and indivisible. It promotes an understanding of children not only as persons in need of special protection but as rights-holders, citizens and active members of the society. The Convention applies equally to each and every child. The full incorporation of the Convention offers a potential added value in that its provisions are understood not only article by article but also holistically.¹⁰⁵ Considering the strong legal status of the Convention in all four countries, there are important opportunities for strengthening its influence on decision taking processes in practice, in policy making, and in the judiciary, including through strategic litigation.

CHILD RIGHTS INSTITUTIONS AND MONITORING MECHANISMS

All four countries have set up national institutions for children's rights and/or human rights more broadly. These state bodies are mandated to monitor the implementation of the Convention and identify relevant strengths and challenges of the public administrations. They have made important contributions to promoting the rights of children within their countries, including children considered at risk of exploitation and trafficking.

In Cyprus, the institution of the Commissioner for the Protection of Children's Rights was established in 2007 as a national human rights monitoring institution. It is mandated to oversee and monitor the implementation of the CRC and other international and regional standards, as well as national law pertaining to children. The Commissioner represents children and their interests at every level, including by ensuring legal representation of children in judicial procedures. The Commissioner is further tasked to raise public awareness on issues pertaining to children's rights and make the voices of children heard. The Commissioner operates also a reporting and complaint mechanism that provides information, advice and legal counselling for children, supports children in filing complaints and claiming their rights.¹⁰⁶ In addition, the Commissioner of Administration (Ombudsperson) is an independent state body mandated to monitor the legality of the acts undertaken by the public administration and their compliance with human rights in Cyprus.¹⁰⁷

The Greek Ombudsperson was set up as an independent authority in 1997. The Ombudsperson mediates between citizens, public services and institutions in order to safeguard the rights of citizens. The Ombudsperson's office has a Child Rights Department to carry out these tasks specifically with regard

¹⁰⁴ See, for instance, sentence no. 183/1994 of the Constitutional Court where the CRC was taken as reference for its definition of the family environment as the best place for the child to "fully and harmoniously develop his/her personality" and for stating that this environment can be constituted both by two different parents or by a single person, depending on the specific situation; sentence no. 19734/2008 of the Supreme Court, where also based on the CRC, the "Kafalah", an institute similar to fostering derived from the Islamic Law was recognised in the Italian legal framework; sentence of the Supreme Court- United Sections no. 21799 of 25th October 2010 where in order to allow the better protection of the best interests of her children, a Nigerian woman was authorized to temporary reside in Italy, without applying general rules on immigration (as envisaged by art. 31 of the Immigration Act) and also without the need to prove the existence of a "real situation of emergency, exceptional and transitory" (as generally requested), but only on the basis of the damage for the children in case of the separation from the mother taking place. See further: UNICEF - Innocenti Research Center, 2007; Moro, 2008. Cited in IMPACT National Report Italy, Chapter 2.

¹⁰⁵ UNICEF Sweden (2007), Comments from UNICEF Sweden on the Swedish Government's 4th Report to the UN Committee on the Rights of the Child 2007, Stockholm, undated, available at: <http://www.unicef.se/assets/unicef-sweden-comments-on-sweden-crc-report-2008.pdf> (accessed November 2013).

¹⁰⁶ The Commissioner for the Protection of Children's Rights (2011), Report of the Commissioner for Children's Rights in Cyprus to the UN Committee on the Rights of the Child Supplementary Report to the 3rd and 4th Periodic Report of Cyprus, p. 7. The Commissioner for Children's Rights (2013), Mission. Cited in: IMPACT National Report Cyprus, Chapter 2.

¹⁰⁷ The Commissioner for Administration (Ombudsman) (2013), Mission. Cited in: IMPACT National Report Cyprus, Chapter 5.



to the human rights of children. It monitors the operations of the public administration and their conformity with national law. The Ombudsperson is mandated to receive and investigate individual complaints. The office investigates also administrative actions or omissions by government departments or public services that infringe upon the personal rights or violate the legal interests of individuals or legal entities.¹⁰⁸ Although the Ombudsperson monitors and reports about the situation of migrant and asylum seeking children in Greece, Human Rights Watch reported that the complaints mechanism is barely accessible for these children.¹⁰⁹

A National Observatory for the Rights of Children was set up in 2001 under the General Secretariat of Youth in the Greek Ministry of Education and Religious Affairs. The Observatory was tasked to support the harmonisation of national laws and policies with the CRC and to promote the rights of the child in Greece, including by conducting research and situation analyses. The activities of the National Observatory were targeted at national and non-national children, regardless of their status in Greece. The Observatory was further mandated to act as a coordination body that monitors and promotes the implementation of the CRC. This coordinating role was however not clearly defined. The work of the Observatory was initiated but there are currently no indications that it continues being operational.¹¹⁰

In Italy, the National Authority for Childhood and Adolescence was established in 2011.¹¹¹ Its mandate comprises the promotion of the implementation of the CRC and other child rights standards, including through opinions on legal matters, on the National Plan on Childhood and Adolescents, and on the state report to the CRC Committee. The National Authority is tasked to promote children's rights to access health care and education and to identify and report emergency cases and adequate responses. It conducts research and is entitled to request information and data from public institutions, to visit and inspect institutions, upon authorisation of the judicial authorities. It holds consultations with children and child-focused organisations, and receives and investigates individual complaints. The National Authority chairs the National Conference for the Rights of Childhood and Adolescence, a platform for regional and provincial Ombuds-Offices that aims to enhance coordination, exchange of information and data and the development of common policies throughout the country.¹¹²

In Portugal, the Ombudsperson is established under the Constitution as an independent state body with the primary function to defend and promote the rights, freedoms and legitimate interests of the citizens, including specifically the human rights of the child. The institution receives individual complaints from citizens about actions or omissions of the authorities that are deemed illegal or unfair. The Ombudsperson may, under certain conditions, intervene in relation to private entities and companies that provide public services, if the aim is to safeguard rights, freedoms and entitlements. The Ombudsperson's mandate foresees also inspections and investigations on his or her initiative and the issuing of administrative or legislative recommendations to the competent bodies. He/she may request the

108 Law 2477/1997 on the Ombudsman and the Public Administration Investigators - Inspectors Authority, Official Gazette of the Hellenic Republic Vol A' No 59 was later on substituted by Law 3094/2003 on the Greek Ombudsman and other regulations, Official Gazette of the Hellenic Republic Vol A' No 10. Law 3094/2003 on the Greek Ombudsman and other regulations, Official Gazette of the Hellenic Republic Vol A' No 10. Cited in IMPACT National Report Greece, Chapter 2.

109 Cited in: IMPACT National Report Greece, Chapter 5.

110 United Nations Committee on the Rights of the Child (2012), Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Greece, CRC/C/GRC/CO/2-3, 13 August 2012, p. 3. Key informant interviews GOV, GR05; GOV, GR06. Cited in: IMPACT National Report Greece, Chapter 5.

111 Law n°. 112/2011. See also: Gruppo CRC - Gruppo di Lavoro per la Convenzione sui diritti dell'infanzia e dell'adolescenza (2013), VI. Rapporto di aggiornamento sul monitoraggio della Convenzione sui diritti dell'infanzia e dell'adolescenza in Italia 2012-2013. Cited in: IMPACT National Report Italy, Chapter 2.

112 Gruppo CRC - Gruppo di Lavoro per la Convenzione sui diritti dell'infanzia e dell'adolescenza (2012), V. Rapporto di aggiornamento sul monitoraggio della Convenzione sui diritti dell'infanzia e dell'adolescenza in Italia, anno 2011-2012. Autorità Garante per l'Infanzia e l'Adolescenza (2013), Crescere insieme ai bambini e agli adolescenti fa diventare grande l'Italia, Seconda relazione al Parlamento. Cited in IMPACT National Report Italy, Chapter 2.



Constitutional Court to review the constitutionality of norms or omissions.¹¹³ In 2009, a Department on Children, Elderly Persons and Persons with Disabilities was created within the Ombudsperson's Office along with the position of a Deputy Ombudsperson dedicated specifically to this area. The Department conducts awareness raising activities on children's rights and receives and handles complaints in cases of alleged violations of child rights.¹¹⁴

In all four countries, these institutions are equipped with a mandate to assess the capability of the public administrations to implement the Convention and to monitor progress made. They provide important evidence of the strengths and gaps of child rights policies and practice, including specifically with regard to cases of exploitation and trafficking, the situation of migrant and asylum seeking children and children who are considered particularly vulnerable. IMPACT builds upon the evidence and recommendations provided by these institutions.

This report refers to individual examples, in which the recommendations issued by monitoring institutions resulted in a change of policy or practice. Creating an institutionalised mechanism to ensure due follow-up to the recommendations issued by independent monitoring bodies would be important to further strengthen their impact.

B. THE CHALLENGE OF PROMOTING INCLUSION: FRAGMENTATION, CATEGORISATION AND DISCRIMINATION

IMPACT aimed to assess the level of inclusiveness of child rights policy in order to understand how and to which extent policy and practice succeed to reach marginalised groups and to promote inclusion. Marginalisation and exclusion are a cause and a consequence of the limited chances of children and families to access services and exercise rights. Marginalised and excluded groups are considered vulnerable to exploitation and trafficking. Policies to promote their inclusion would therefore offer important entry points for prevention and empowerment.

This section summarises key observations from the four countries on the inclusiveness of policies. It discusses how national laws and policies apply to different groups of children. The groups considered for the analysis are national children, children belonging to ethnic minorities, and non-national children, including asylum seeking and refugee children, migrant children from EU countries, and undocumented children, as well as child victims of exploitation and trafficking. These 'categories' of children are commonly considered to be at risk of exploitation and trafficking and are primarily addressed by policy plans and strategies in European countries. They are selected here for a discussion of the 'categorisation' approach to policy making that is fragmented by sector. These 'categories' are not exhausting all indicators by which policies are being sectoralised. Factors such as gender, age or disability are equally important and should be considered for an in-depth analysis of the capacity of national policies to promote inclusion and non-discrimination. Further to the discussion in this section, the issue of fragmentation is cutting across the following chapters as well, as it was identified as a major feature characterising the national child protection systems and public administrations.

The transnational analysis focuses on policies relating to health care, education, guardianship, work and employment. It also discusses the right to non-discrimination as a general principle of the Convention (Article 2) and how it is being respected in practice. A more comprehensive discussion is available in the IMPACT National Reports.

¹¹³ Cited in: IMPACT National Report Portugal, Chapter 5.

¹¹⁴ Cited in: IMPACT National Report Portugal, Chapter 5.



INTERRELATEDNESS OF RIGHTS AS THE BASIS FOR A HOLISTIC APPROACH

As was discussed in Chapter 2.b, vulnerability to exploitation and trafficking is considered to cut across various sectors. The risks that children face in relation to different rights are often interrelated and accumulating and increase their vulnerability.

The Committee on the Rights of the Child has extensively commented on the importance of adopting a holistic approach in policy and practice that values the human rights of the child as inter-related and indivisible. It emphasises that progress in relation to a single right cannot be achieved if measures are not integrated into a more holistic approach. The rights to health, leisure time and recreational activities, for instance, are considered directly connected to the child's right to grow and develop his or her full potential. The right to protection from all forms of violence can only be achieved when all the other rights of the child are effectively promoted. Safeguarding the right to education is considered to lead to positive results also in terms of social and economic rights, health and protection.¹¹⁵

An important finding resulting specifically from the reviews in Cyprus, Greece and Italy is the extreme fragmentation of the laws, policies and regulations concerning children. The recommendation to develop a unified law pertaining to children has been reiterated frequently by national child rights institutions and the Committee on the Rights of the Child. In Cyprus, the Commissioner for the Protection of Children's Rights has recommended that a new framework law on children be developed that integrates not only the existing sectoral laws but also the general principles of the CRC. The law should apply to all children in the country.¹¹⁶ A unified Children's Act has been called for also in Greece. The legal framework concerning children has been described as a 'labyrinth' causing confusion, doubts about institutional mandates and responsibilities, weak accountability, and significant gaps in implementation.¹¹⁷

The national IMPACT studies revealed that some child rights themes are regulated more clearly in national law and policy than others. As a result, information about the practice related to these rights was also more readily accessible from public sources. This concerns particularly matters where the child is in contact with the authorities, as a migrant or asylum seeker, a victim, witness or perpetrator of crime, or in civil law matters such as family law or child protection. Other areas such as the right to engage in leisure time activities, sports and recreation or play, or simply social contacts with families and peers, are not as clearly regulated by law. The responsibility for guaranteeing that children enjoy these rights in practice lies therefore primarily with the parents, guardians, or staff in child care institutions and reception facilities. In consequence, it can be expected that there is a great variability in how children can exercise these rights.

It will not be possible or desirable to regulate all aspects of a child's life by law. Considering the importance of social life, leisure time and recreational activities for a child's development, it would however be essential to ensure that these matters receive due attention in quality standards for institutional care and reception of asylum seekers as well as training of relevant professionals.

¹¹⁵ United Nations Committee on the Rights of the Child (2011), General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, CRC/C/GC/12, 18 April 2011. United Nations Committee on the Rights of the Child (2013), General Comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), p. 3. United Nations Committee on the Rights of the Child (2013), General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), CRC/C/GC/14, 29 May 2013. United Nations Committee on the Rights of the Child (2001), General Comment no. 1 (2001), Article 29 (1), The Aims of Education, CRC/GC/2001/1, 17 April 2001. United Nations Committee on the Rights of the Child (2013), General comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31), CRC/C/GC/17, 17 April 2013.

¹¹⁶ The Commissioner for the Protection of Children's Rights (2011), Report of the Commissioner for Children's Rights in Cyprus to the UN Committee on the Rights of the Child Supplementary Report to the 3rd and 4th Periodic Report of Cyprus, p. 21. Cited in: IMPACT National Report Cyprus, Chapter 4.1.2.

¹¹⁷ Aggelopoulos, P. (2012), Πολυνομία, Κακονομία, Ανομία, Το ΒΗΜΑ, 27 April 2012. Cited in: IMPACT National Report Greece, Chapter 6.



PREVENTION OF DISCRIMINATION

The Convention on the Rights of the Child affords a broad and comprehensive protection from discrimination. It provides that “States Parties shall respect and ensure the rights set forth in the ... Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status” (CRC Article 2.1). In light of this general principle, the rights afforded under the Convention shall apply to all children who are under the jurisdiction of the State, including non-national children who are migrants, refugees or undocumented.¹¹⁸

The prohibition of discrimination does not necessarily imply equal treatment for all children. Proactive measures to prevent discrimination and affirmative action, i.e. the ‘legitimate differentiation in treatment’ is important to prevent and redress discrimination and to promote the inclusion of particularly marginalised children.¹¹⁹

Cyprus, Greece, Italy and Portugal are pursuing different and multi-faceted strategies to prevent and respond to discrimination. All countries have established the equality before the law under their Constitutions, which applies to citizens, in accordance with the scope of the Constitutions.¹²⁰ In Portugal, the Constitution provides specifically that children are entitled to special protection by the society and the state against any form of discrimination.¹²¹ In Italy, the Constitutional Court has extended the application of the Constitution to non-nationals and stateless persons in matters concerning their fundamental human rights. Case law from the Constitutional Court has established that child protection standards apply equally to Italian and non-national children.¹²² This ruling underlines the important role of courts and the potential offered by strategic litigation for clarifying and expanding the application of national laws and ensuring that they are implemented and interpreted in an inclusive way.

In addition to the constitutional provisions, specialised laws have been enacted in all four countries to prohibit discrimination in specific sectors, such as labour and employment, and on specific grounds, such as gender, race, religion and ethnicity.¹²³ In Italy, the Immigration Act provides for a legal definition of discrimination, which is closely oriented at the concept defined by the Human Rights Committee.¹²⁴ Discrimination is thereby understood as “... all behaviours that, directly or indirectly, entail a distinction, exclusion, restriction or preference based on race, colour, ancestry or national origin or ethnicity, religious beliefs and practices, and that have as aim, or effect, the privation or compromise of the recognition, enjoyment or exercise, on equal terms, of human rights and fundamental freedoms in the political, economic, social and cultural fields and in every other sector of life”.¹²⁵

¹¹⁸ United Nations Children’s Fund (2002), Implementation Handbook for the Convention on the Rights of the Child, Fully Revised Edition, prepared for UNICEF by Rachel Hodgkin and Peter Newell, New York and Geneva, p. 26.

¹¹⁹ United Nations Children’s Fund, Implementation Handbook for the Convention on the Rights of the Child, Fully Revised Edition, prepared for UNICEF by Rachel Hodgkin and Peter Newell, New York and Geneva, 2002, p. 19.

¹²⁰ Cyprus: The constitutional Article 28 refers to the right of ‘every person’ to enjoy the rights and liberties established under the Constitution, whereas exceptions may be defined under the Constitution. Cited in: IMPACT National Report Cyprus, Chapter 3. Greece: Article 4 of the Greek Constitution establishes the equality of Greek citizens. IMPACT National Report Greece, Chapter 3. Italy: The Italian Constitution guarantees equality before the law for all citizens (Article 3). IMPACT National Report Italy, Chapter 3. Portugal: The Constitution of Portugal provides that all citizens are equal before the law (Article 13). In addition, Article 60 recognises specifically for children the right to be protected by the society and the State against any form of discrimination. IMPACT National Report Portugal, Chapter 3.

¹²¹ Constitution of the Republic of Portugal, Article 69. Cited in IMPACT National Report Portugal, Chapter 3.

¹²² CRC/C/8/Add.18 20th February 1995, para. 12. Among others, see for instance sentence of the Constitutional Court 30th November-11th December 1989, n. 536, stating equal treatment for Italian and foreign minors; ordinance of the Constitutional Court 29th July 2005, n. 3476, affirming that rules on protection applied for Italian minors must be applied also for foreigner minors. Cited in IMPACT National Report Italy, Chapter 3.

¹²³ See IMPACT National Report Cyprus, Chapter 3. Greece: IMPACT National Report Greece, Chapter 3. Italy: IMPACT National Report Italy, Chapter 3. Portugal: IMPACT National Report Portugal, Chapter 3.

¹²⁴ See: United Nations Children’s Fund (2002), Implementation Handbook for the Convention on the Rights of the Child, Fully Revised Edition, prepared for UNICEF by Rachel Hodgkin and Peter Newell, New York and Geneva, p. 19.

¹²⁵ Italy Immigration Act Article 43, paragraph 1. Cited in: IMPACT National Report Italy, Chapter 3.



Cyprus has ratified the Protocol No. 12 to the Council of Europe Convention for the Protection of the Human Rights and Fundamental Freedoms on a General Prohibition of Discrimination. This Protocol reinforces the broad prohibition of discrimination afforded under the Convention and strengthens the legal protection of children in this regard.

Despite this general prohibition in Cyprus and the strong legal status of the CRC in all four countries, the right of the child to be protected from discrimination is not explicitly guaranteed in practice. As the Committee on the Rights of Child recommended, the right to non-discrimination should not only be enshrined in anti-discrimination laws, but needs to be ensured also through coherent and comparable standards across the various sectoral laws. The four countries studied by IMPACT have however chosen to define for each law specifically the scope of its application to different groups of children, such as laws on health care, education, guardianship, work and employment. This approach bears a risk that laws and policies are incoherent and might create a legal context and attitudes that tolerate the exclusion of children on the grounds of status in certain sectors.

In addition to the legal prohibition of discrimination, the four countries have also taken proactive and affirmative measures to prevent and redress discrimination.¹²⁶ Specialised state bodies and independent institutions mandated to prevent and address cases of discrimination and to receive complaints have been established in all countries, including institutions that combine a monitoring function with a complaints mechanisms.¹²⁷ In Cyprus, for instance, the Commissioner for the Protection of Children's Rights received and investigated numerous complaints related to cases of discrimination against children on the grounds of age, ethnicity, nationality, legal status, religion, or disability. The Commissioner noted that documented and undocumented migrant children did not have equal access to healthcare. Although the law did factually not exclude them, there were no proactive measures to ensure migrant children's access to health services on equal terms, irrespectively of their migration status. After several complaints were reported with the Commissioner's support, the Ministry of Health decided to grant migrant children equal benefits as Cypriot children, regardless of their status.¹²⁸

There are also special programmes to promote the social inclusion of the Roma population, including children, through targeted measures in the area of education, health care and social services. The guidance and strategic recommendations issued by the European Union and Parliament have prompted renewed attention to this area. In Greece, Italy and Portugal, national action plans and strategies for the inclusion of Roma were developed. The strategies integrate fragmented policies and consolidate the measures from various ministries and policy sectors.¹²⁹ In Cyprus, where the Roma population is small in number, the Government chose to integrate measures into existing programmes rather than developing a distinct strategy.¹³⁰

In practice, the national laws prohibiting discrimination are however not consistently applied to children and cases of differential treatment, exclusion or discrimination against national and non-national

¹²⁶ Cyprus: IMPACT National Report Cyprus, Chapter 3. Greece: IMPACT National Report Greece, Chapter 3. Italy: IMPACT National Report Italy, Chapter 3. Portugal: IMPACT National Report Portugal, Chapter 3.

¹²⁷ Cyprus: IMPACT National Report Cyprus, Chapter 3. Greece: IMPACT National Report Greece, Chapter 3. Italy: IMPACT National Report Italy, Chapter 3. Portugal: IMPACT National Report Portugal, Chapter 3.

¹²⁸ The Commissioner for the Protection of Children's Rights (2011), Report of the Commissioner for Children's Rights in Cyprus to the UN Committee on the Rights of the Child Supplementary Report to the 3rd and 4th Periodic Report of Cyprus, p.23. Cited in: IMPACT National Report Cyprus, Chapter 3.

¹²⁹ Portugal: Resolution of the Portuguese Council of Ministers 25/2013, Government Gazette, 1st Series, No.75, 17 April 2013. Cited in: IMPACT National Report Portugal, Chapter 3. Greece: Ministry of Labour and Social Security (2011), National Strategic Framework for Roma, pp. 3, 7. European Commission (2011), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, An EU Framework for National Roma Integration Strategies up to 2020, COM (2011) 173 final, Brussels 5.4.2011. Cited in: IMPACT National Report Greece, Chapter 3. See also: IMPACT National Report Italy, Chapter 3.

¹³⁰ The European Union and Roma, Country Factsheet, Cyprus, undated, available at: http://ec.europa.eu/justice/discrimination/files/roma_country_factsheets_2013/cyprus_en.pdf (accessed November 2013), p. 2. Policy Measures of Cyprus for the Social Inclusion of Roma, undated, available at: http://ec.europa.eu/justice/discrimination/files/roma_cyprus_strategy_en.pdf (accessed November 2013).



children have been reported from all four countries, as is discussed further in the following sections. Among national children, Roma children appear to be disproportionately affected by exclusion and discrimination, on individual and inter-secting grounds. The strategies and proactive measures taken to promote their inclusion have not yet shown the desired effect. In addition, also children with disabilities, children living or working on the streets, and children in detention are affected by discrimination.¹³¹

In Greece, Roma children are not always registered at birth or are registered only with their parents' last name and the line for the first name remains blank with the note 'awaiting baptism'. The children are thereby not only deprived of their right to have their name registered at birth but also the right to freedom of religion is restricted when birth registration is made dependent on baptism.¹³² From Italy, reports indicate that Roma children are disadvantaged in accessing care and accommodation for multiple reasons, including due to prevailing stereotypes and prejudices.¹³³ There are no specific procedures to support social workers in offering family support services, child protection, care and placement for Roma children. In the absence of cultural mediation, the communication between the authorities and Roma families is often ineffective. As a result, child protection and care services for Roma children remain of limited impact.¹³⁴ The European Committee of Social Rights stated that the Government of Italy was violating the right to housing and the right to non-discrimination under the Revised European Social Charter (Articles 31 and E), as Roma and Sinti children and communities are living in segregated camps under inadequate conditions and lack access to basic services such as clean water.¹³⁵

Among non-national children, concerns about exclusion and discrimination have been reported with regard to asylum seeking children, resident children with a migration background and, in particular, undocumented children.¹³⁶

In Italy, studies have evidenced that migrant children who are in conflict with the law tend to be condemned to longer periods of detention, have less access to alternatives to detention or judicial forgiveness, and are less likely to be released on parole. Some of these children are exposed to discrimination and exclusion in multiple contexts, including in the areas of health, education, social welfare and protection, which reduces their opportunities to enjoy their rights and to develop their full

¹³¹ United Nations Committee on the Rights of the Child (2012c), Consideration of Reports submitted by States parties under article 44 of the Convention, Concluding Observations: Cyprus, CRC/C/CYP/CO/3-4, p. 5. Cited in IMPACT National Report Cyprus, Chapter 3. United Nations Committee on the Rights of the Child (2012), Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Greece, CRC/C/GRC/CO/2-3, 13 August 2012, p. 6. Cited in IMPACT National Report Greece, Chapter 3. CRC- Committee on the Rights of the Child (2003), Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Italy, CRC/C/15/Add.198, 2003, par. 20. Gruppo CRC - Gruppo di Lavoro per la Convenzione sui diritti dell'infanzia e dell'adolescenza (2009), 2° Rapporto Supplementare alle Nazioni Unite sul monitoraggio della Convenzione sui diritti dell'infanzia e dell'adolescenza in Italia. Key informant interview GOV, IT 08. Cited in: IMPACT National Report Italy, Chapter 3.

¹³² United Nations Committee on the Rights of the Child (2012), Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Greece, CRC/C/GRC/CO/2-3, 13 August 2012. Greek Helsinki Monitor (GHM), Minority Rights Group - Greece (MRG-G), Coordinated Organizations and Communities for Roma Human Rights in Greece (SOKADRE) (2011), Parallel Report on Greece's Compliance with the UN Convention on the Rights of the Child. Cited in: IMPACT National Report Greece, Chapter 4.3.1.

¹³³ For more details on the project, please see: <http://www.errc.org/about-us/projects/protecting-the-rights-of-romani-children-in-the-child-protection-system-in-bulgaria-czech-republic-hungary-italy-romania-and-slovakia/3844> (Accessed September 2013).

¹³⁴ OsservAzione (2011), Sintesi dei risultati della ricerca "Protecting the Rights of Romani Children in the Child Protection System in Bulgaria, Czech Republic, Hungary, Italy, Romania and Slovakia". Cited in: IMPACT National Report Italy, Chapter 4.1.1.

¹³⁵ European Committee for Social Rights, Decision on the Merits, 7 December 2005, European Roma Rights Centre v. Italy, available at: http://www.coe.int/t/dghl/monitoring/socialcharter/complaints/CC27Merits_en.pdf (accessed July 2013). See also: Parallel Report by the European Roma Rights Centre and Association 21st July 2011 to the UN Committee on the Rights of the Child on Italy for its consideration at the 58th Session, available at: <http://www.errc.org/cms/upload/file/italy-crc-submission-26-july-2011.pdf> (accessed July 2013). Cited in: IMPACT National Report Italy, Chapter 3.

¹³⁶ United Nations Committee on the Rights of the Child (2012c), Consideration of Reports submitted by States parties under article 44 of the Convention, Concluding Observations: Cyprus, CRC/C/CYP/CO/3-4, p. 5. Cited in IMPACT National Report Cyprus, Chapter 3. United Nations Committee on the Rights of the Child (2012), Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Greece, CRC/C/GRC/CO/2-3, 13 August 2012, p. 6. Cited in IMPACT National Report Greece, Chapter 3. CRC- Committee on the Rights of the Child (2003), Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Italy, CRC/C/15/Add.198, 2003, par. 20. Gruppo CRC - Gruppo di Lavoro per la Convenzione sui diritti dell'infanzia e dell'adolescenza (2009), 2° Rapporto Supplementare alle Nazioni Unite sul monitoraggio della Convenzione sui diritti dell'infanzia e dell'adolescenza in Italia. Key informant interview GOV, IT 08. Cited in: IMPACT National Report Italy, Chapter 3.



potentials. The Committee on the Rights of the Child noted with concern that "... children belonging to these disadvantaged groups seem more likely to be stigmatized in public perception, to drop out of school, to be employed in clandestine work or even in illegal activities, including being instrumentalised in organised criminal activities".¹³⁷

In addition to grounds of discrimination or exclusion that are connected with the personal background of the child, differential treatment has also been reported as a result of the decentralised administrations. In Italy and Greece, the disparities of resources and services available at the regional and local levels lead to differential treatment of children in different localities, which might, in some instances, amount to *de facto* discrimination (see also Chapter 5.d).¹³⁸

HEALTH CARE

In all four countries, the national health system provides health care to all children who are legally staying in the countries. The group that is most at risk of exclusion from health services are undocumented children. While all countries have taken steps to promote their inclusion and to provide health care for children regardless of their immigration status, bureaucratic and other hurdles pose obstacles for non-nationals to access health care.

In Cyprus, the Ministry of Health decided in 2011 to grant migrant children the same access to health care and medical services as Cypriot children, regardless of their status.¹³⁹ This decision was taken in response to a recommendation from the Commissioner for the Protection of Children's Rights. The services guaranteed by law are however not consistently provided in practice. For unaccompanied children, access is often inhibited by a lack of information, translation and mechanisms to ensure access.¹⁴⁰

Asylum seeking children have a right to access only the "necessary medical or other assistance". Access is to be granted free of charge for persons who lack sufficient means of support. According to the Refugee Law, asylum seekers and their dependants receive a medical card, which ensures free medical care in public hospitals. Once that an asylum application has been rejected, the child loses his or her status and is no longer entitled to any services, even for the duration of the appeal and the pending adjudication by the Supreme Court.¹⁴¹

In Greece, children are entitled to access the national health system regardless of their legal status. Children who do not have a health insurance are entitled to an insurance booklet for uninsured per-

¹³⁷ Gruppo CRC - Gruppo di Lavoro per la Convenzione sui diritti dell'infanzia e dell'adolescenza (2012), V. Rapporto di aggiornamento sul monitoraggio della Convenzione sui diritti dell'infanzia e dell'adolescenza in Italia, anno 2011-2012. Cited in: IMPACT National Report Italy, Chapter 3.

¹³⁸ Gruppo CRC - Gruppo di Lavoro per la Convenzione sui diritti dell'infanzia e dell'adolescenza (2009), 2° Rapporto Supplementare alle Nazioni Unite sul monitoraggio della Convenzione sui diritti dell'infanzia e dell'adolescenza in Italia. Cited in: IMPACT National Report Italy, Chapter 3. Greek Helsinki Monitor (GHM), Minority Rights Group - Greece (MRG-G), Coordinated Organizations and Communities for Roma Human Rights in Greece (SOKADRE) (2011), Parallel Report on Greece's Compliance with the UN Convention on the Rights of the Child. Cited in: IMPACT National Report Greece, Chapter 3.

¹³⁹ Akasereh, N. (2011), Voice of Unaccompanied Minor Asylum Seekers on Guardianship. A study on Guardians of Unaccompanied Minor Asylum Seekers in Cyprus, Nicosia: Hope For Children. The Commissioner for the Protection of Children's Rights (2011), Report of the Commissioner for Children's Rights in Cyprus to the UN Committee on the Rights of the Child Supplementary Report to the 3rd and 4th Periodic Report of Cyprus, p. 23. Cited in: IMPACT National Report Cyprus, Chapter 4.1.2.

¹⁴⁰ Akasereh, N. (2011), Voice of Unaccompanied Minor Asylum Seekers on Guardianship. A study on Guardians of Unaccompanied Minor Asylum Seekers in Cyprus, Nicosia: Hope For Children. United Nations Committee on the Rights of the Child (2012c), Consideration of Reports submitted by States parties under article 44 of the Convention, Concluding Observations: Cyprus, CRC/C/CYP/CO/3-4, p. 11. Cited in: IMPACT National Report Cyprus, Chapter 4.1.2.

¹⁴¹ Cyprus: Article 20H(1)(στ) of the Refugee Law, Law No. 6(I) of 2000, last amended 2013. See also: Trimikliniotis, N., Demetriou, C. (2007), The Risk Group of Unaccompanied Minors: Protection Measures in an Enlarged European Union – Country Report Cyprus, p. 13. United Nations Committee on the Rights of the Child (2012c), Consideration of Reports submitted by States parties under article 44 of the Convention, Concluding Observations: Cyprus, CRC/C/CYP/CO/3-4, p. 10. See also: Cochiou, D. and Spaneas, S. (2009), Asylum System in Cyprus, A field for social work practice, European Journal of Social Work, 12(4), pp.535-540. Cited in: IMPACT National Report Cyprus, Chapter 4.1.2.



sons for free medical, pharmaceutical care and hospitalisation.¹⁴² The shortage of human and financial resources and a weak infrastructure in the health sector pose, however, obstacles to the realisation of the right to free health care. The access to services is especially difficult for children belonging to ethnic minorities, children living in the streets, migrant, asylum seeking and unaccompanied children. While in some cases, fees for ambulatory care, prescription drugs and hospital care have been further hindering access for the most marginalised groups, the Government of Greece has recognised the inhibiting effect of these charges and is gradually abolishing them for certain services and groups. The requirement of inscription to obtain the insurance booklet may prevent some children from accessing the services, especially so undocumented children.¹⁴³

At the main entry points along the EU outer borders, a doctor or a team of medical staff should be present at migrants' disembarkation. The Greek law provides for the discretion that medical services at the entry point are provided only in cases where it is evidently necessary. Medical examinations are therefore not being conducted in a standardised way.¹⁴⁴ Instead, the coast guards call an ambulance to the disembarkation point in case of emergency or transfer the person to the nearest hospital themselves.¹⁴⁵ With the establishment of the First Reception Centre, medical checks are to be provided for all migrants referred to the centre.¹⁴⁶

In addition to the difficulties of access, there are also concerns about the quality of medical services for unaccompanied children and migrants and that health care professionals are not prepared to contribute to identifying children at risk. Cases have been reported, where children in need of medical and psychological care passed all preliminary medical checks and ended up in a police detention facility, without receiving prompt care and assistance.¹⁴⁷

In some parts of Greece, Socio-Medical Centres (SMC) were established in order to promote the inclusion of 'socially vulnerable groups'. These Centres operate as inter-disciplinary units under a Joint Ministerial Decision (2006) of the Ministries of Health and Social Solidarity, Employment and Social Insurance, Economy and Finance, and Ministry of the Interior. The centres are targeted primarily at Roma communities and aim to facilitate their social integration, through primary health care, social protection, and information. Among all the activities targeted at Roma communities in Greece, the Socio-Medical Centres are considered a particularly successful practice. Funded under the Third Community Support Framework (CSF) of the European Commission, the Centres were however not sustainable when the funding expired in mid-2009. The staff continued unpaid for several months. One of the alternative reports to the Committee on the Rights of the Child noted that the Centres had gained the confidence of the Roma communities and that closing them might undermine the trust that they had helped to

¹⁴² Law 3386/2005 on Entry, residence and integration of third-country nationals in the Greek territory, Official Gazette of the Hellenic Republic Vol A', No.212), as amended by Laws 3448/2006 (Official Gazette of the Hellenic Republic Vol A' No.57), 3536/2007 (Official Gazette of the Hellenic Republic Vol A' No.42), 3613/2007 (Official Gazette of the Hellenic Republic Vol A' No.263), 3731/2008 (Official Gazette of the Hellenic Republic Vol A' No.263), 3772/2009 (Official Gazette of the Hellenic Republic Vol A' No.112) and 3801/2009 (Official Gazette of the Hellenic Republic Vol A' No.163). Cited in: IMPACT National Report Greece, Chapter 4.1.2.

¹⁴³ United Nations Committee on the Rights of the Child (2012), Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Greece, CRC/C/GRC/CO/2-3, 13 August 2012, p. 12. World Health Organisation (2013), Health, health systems and economic crisis in Europe. Impact and policy implications, Summary, Draft for Review, p. 11, 13. Key informant interview ORG, GR04. Cited in: IMPACT National Report Greece, Chapter 4.1.2.

¹⁴⁴ Presidential Decree 220/2007: Adaptation of the Greek Legislation to the Provisions of the Council Directive 2003/9/EC of 27 January 2003 laying down the minimum standards for the reception of asylum seekers (Official Journal of the Hellenic Republic L 31 of 6 February 2003) (Official Gazette of the Hellenic Republic 2008 Issue A' No.84), Article 8. Cited in: IMPACT National Report Greece, Chapter 4.1.2.

¹⁴⁵ European Union Agency for Fundamental Rights (2013), Fundamental Rights at Europe's Southern Sea Borders, Luxembourg: Publications Office of the European Union, p. 74. Cited in: IMPACT National Report Greece, Chapter 4.1.2.

¹⁴⁶ Law 3907/2011. Cited in: IMPACT National Report Greece, Chapter 4.1.2.

¹⁴⁷ European Union Agency for Fundamental Rights (2013), Fundamental Rights at Europe's Southern Sea Borders, Luxembourg: Publications Office of the European Union, p. 76. Cited in: IMPACT National Report Greece, Chapter 4.1.2.



build.¹⁴⁸ The National Strategic Plan for Roma (2012-2020) provides however for the continuation of these centres.¹⁴⁹

In Italy, access to services and facilities offered by the National Health System is, by law, available for all children who are residing and registered in Italy and who are enrolled in the National Health System.¹⁵⁰ The decentralisation of health care has however led to regional and local differences in supply, which affects particularly the access of undocumented migrants. In 2012, the Ministry of Health and the State-Regions Conferences issued guidelines to harmonise the regional health care provision for immigrants. These guidelines reiterate that all children are entitled to health care regardless of their status. There are however reports indicating that they are not yet consistently applied by all regions.¹⁵¹

A prerequisite for the enrolment in the National Health System is a residence permit and the fiscal code. Some immigrants remain excluded due to a lack of information about the procedures for enrolment. Undocumented migrants are entitled to receive a card for 'temporarily present foreigners' (STP card) which entitles them to access emergency or primary health care, social protection of pregnancy and maternity, health care for children, immunisation, prevention and treatment of infectious disease and drug addiction. A major obstacle for undocumented migrants to access health services are, however, the registration procedures connected to the health care system.¹⁵²

Family Counselling Units were established as multi-disciplinary models that provide low-threshold services to children and families, including cultural mediation in some locations. The priority of the units is to grant access to health care and other services. They would bear thereby an important potential for the identification of persons, including children, who are exposed to exploitation or trafficking or who are at risk. Due to budget cuts, the units are however not considered operational.¹⁵³

In Portugal, the citizens have a right to health care, and children under 13 years of age are exempted from user charges.¹⁵⁴ Undocumented migrants need to register at the municipal council and prove their permanence in Portugal for more than 90 days in order to gain access to health services. They have to pay the user charges as Portuguese citizens do.¹⁵⁵ Since the health services have to report cases of undocumented migrants to the Health Regional Administrations, with information on the nationality, professional activity, address, age and sex of the immigrant, undocumented migrants may feel reluctant to use the services.¹⁵⁶

148 Greek Helsinki Monitor (GHM), Minority Rights Group - Greece (MRG-G), Coordinated Organizations and Communities for Roma Human Rights in Greece (SOKADRE) (2011), Parallel Report on Greece's Compliance with the UN Convention on the Rights of the Child, pp. 5-6. Cited in: IMPACT National Report Greece, Chapter 3.

149 Ministry of Labour and Social Security (2011), National Strategic Framework for Roma, pp. 3, 7. European Commission (2011), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, An EU Framework for National Roma Integration Strategies up to 2020, COM (2011) 173 final, Brussels 5.4.2011. Cited in: IMPACT National Report Greece, Chapter 3.

150 Law n° 833 of December 23, 1978. Legislative Decree n° 286 of July 25, 1998. Cited in: IMPACT National Report Italy, Chapter 4.1.2.

151 Osservatorio epidemiologico sulle disuguaglianze/ARS Marche. (2008). Immigrati e servizi sanitari in Italia: le risposte dei sistemi sanitari regionali. ORG, IT 02. Ministero della Salute, Conferenza Stato-Regioni (2012), Indicazioni per la corretta applicazione della normativa per l'assistenza sanitaria alla popolazione straniera da parte delle Regioni e Province Autonome italiane, 20 December 2012, available at <http://www.salute.gov.it/dettaglio/dettaglioNews.jsp?id=2371&tipo=new> (accessed February 2013). Cited in: IMPACT National Report Italy, Chapter 4.1.2.

152 Legislative Decree n° 286 of July 25, 1998, Article 35. Cited in: IMPACT National Report Italy, Chapter 4.1.2.

153 Ministero della Salute, Dipartimento della prevenzione e della comunicazione (2010), Organizzazione e attività dei consultori famigliari pubblici in Italia, available at: http://www.salute.gov.it/imgs/C_17_pubblicazioni_1406_allegato.pdf (accessed November 2012). Key informant interview ORG, IT 02. Cited in: IMPACT National Report Italy, Chapter 4.1.2.

154 Portuguese Constitution (Constitutional Law no.1/2005, VII Constitutional revision), Government Gazette, 1st Series-A, No.155, 12 August 2005, Article 64, p. 4652. Basic Law of Health (BLH) (Law 56/79; Law 48/90). Portugal (2005). Cited in: IMPACT National Report Portugal, Chapter 4.2.

155 Dispatch of the Ministry of Health 25.360/2001, Government Gazette, 2nd Series, No. 286, 12 December 2001. Law 135/99, Government Gazette, 1st Series-A, No.94, 22 April 1999, Article 34. Number 2 of Base 33 of the Basic Law of Health. Cited in: IMPACT National Report Portugal, Chapter 4.2.

156 Dispatch 25.360/2001, Government Gazette, 2nd Series, No. 286, 12 December 2001. See also: Machado, et al. 2007. Cited in: IMPACT National Report Portugal, Chapter 4.2.



EDUCATION

Education offers important opportunities for promoting social inclusion and for the cognitive, intellectual and skills development of children. Children who drop out of school or who are excluded by administrative or other obstacles, are likely to face life-long consequences such as reduced chances on the labour market and a higher risk of entering into precarious and possibly exploitative working situations. The national policies on education are inclusive in all four countries, yet, there are several administrative or practical hurdles that prevent some groups of children from accessing school. Asylum seeking and migrant children, are particularly in need of special support, including language training. In the absence of special programmes in support of their school integration, they risk losing out of their right to education.

In Cyprus, asylum seeking children, child victims of trafficking, and undocumented children are all entitled to education and vocational training on the same terms as Cypriot and EU citizens. The entry to education and vocational training is open to all children regardless of their status. In practice however, non-national children are likely to face obstacles in education such as language barriers and the absence of special programmes supporting their inclusion.¹⁵⁷

In 2003, the Ministry of Education and Culture initiated the 'Zones of Educational Priority' (ZEP) in order to support the integration of non-national and other marginalised children into the educational system. The programme offers special support in Greek as a second language and inter-cultural activities. ZEP aims to support the educational inclusion, reduce the dropout rates and prevent the involvement of children in criminal and illegal activities.¹⁵⁸

Schools in Cyprus have to register the pupils and request therefore personal data of the child and his or her parents, including their address. Undocumented children may not be enrolled in school by their parents, due to the fear of arrest and deportation. There is currently no standardised response to children who are not enrolled in school, although investigating their situation and the reasons why they are not at school might offer important opportunities for the identification of children at risk.¹⁵⁹

In Greece, education is compulsory for a total of nine years for all children in the country regardless of their residence status.¹⁶⁰ Non-national children need to provide the same documentation for enrolment in school as Greek children. Children who have been granted a residence permit as refugees, asylum-seekers, or children of non-nationals whose applications for residence status are still pending, are able to register with public schools even if they lack complete documentation.¹⁶¹

Despite the inclusive laws, undocumented children are facing difficulties in accessing education and vocational training. The difficulties relate to the child's previous level of education, age, bureaucratic hurdles, the

¹⁵⁷ Cyprus: Law 87(I)/2007. Trimikliniotis, N., Demetriou, C. (2008), Thematic Study on Child Trafficking – Cyprus, European Union Agency for Fundamental Rights, p. 23-24. Cochliou, D., Spaneas, S. (2009), Asylum System in Cyprus, A field for social work practice, European Journal of Social Work, 12(4), pp.535-540. Cited in IMPACT National Report Cyprus, Chapter 3.

¹⁵⁸ MoEC, 2008. Cited in IMPACT National Report Cyprus, Chapter 3.

¹⁵⁹ The Commissioner for the Protection of Children's Rights (2011), Report of the Commissioner for Children's Rights in Cyprus to the UN Committee on the Rights of the Child Supplementary Report to the 3rd and 4th Periodic Report of Cyprus, p.23. United Nations Committee on the Rights of the Child (2012c), Consideration of Reports submitted by States parties under article 44 of the Convention, Concluding Observations: Cyprus, CRC/C/CYP/CO/3-4, p. 5. Key informant interview GOV, CY01. Cited in: IMPACT National Report Cyprus, Chapter 4.2.1.

¹⁶⁰ Law 1566/1985 on the Structure and Operation of Primary and Secondary Education and other regulations, Official Gazette of the Hellenic Republic, Vol. A', No.167, 30 September 1985. Law 3386/2005 on Entry, residence and integration of third-country nationals in the Greek territory, Official Gazette of the Hellenic Republic Vol A', No.212), as amended by Laws 3448/2006 (Official Gazette of the Hellenic Republic Vol A' No.57), 3536/2007 (Official Gazette of the Hellenic Republic Vol A' No.42), 3613/2007 (Official Gazette of the Hellenic Republic Vol A' No.263), 3731/2008 (Official Gazette of the Hellenic Republic Vol A' No.263), 3772/2009 (Official Gazette of the Hellenic Republic Vol A' No.112) and 3801/2009 (Official Gazette of the Hellenic Republic Vol A' No.163), Article 72. Cited in: IMPACT National Report Greece, Chapter 4.2.1.

¹⁶¹ Law 2910/2001. On Entry and Stay of Aliens in Greek Territory. Acquisition of Greek Citizenship by Naturalisation and Other Provisions, Official Gazette Vol A' No 91, Article 40. Cited in: IMPACT National Report Greece, Chapter 4.2.1.



absence of a guardian to support the child's enrolment and, in some cases, the child's aspirations to find a job rather than going to school. Children who are held in immigration detention together with their parents are entitled by law to access education and to engage in age-appropriate leisure time activities. This right is not explicitly provided for unaccompanied children in immigration detention.¹⁶²

A high number of Greek Roma children drop out of school, because school authorities refuse to register the children, or due to negative reactions and stereotypes among parents, teachers and school staff. Prejudices persist as insufficient information and sensitisation is provided to professionals in the education sector. Roma children living in isolated settlements require public transportation to school but the inadequate or absent transportation might keep them excluded. In addition, Roma children may be segregated in specific schools that provide lower standards of education compared to the mainstream schools.¹⁶³

In Greece, non-completion of compulsory education and school dropouts of children under 16 years of age is considered one of the major challenges within the educational system and concerns even pupils in primary school age. During the academic year 2006/2007, a total of 3,908 primary school students dropped out as well as 13,942 high school students. A standardised mechanism for the prevention of school dropouts and follow-up is not in place. In the same school year, 77% of the 8,800 Roma children attending primary education dropped out. In the EU wide comparison, the rate of early school leaving in Greece is however close to the average, which demonstrates that the issue is an EU-wide phenomenon that requires a targeted response. The school dropouts in Greece are considered to be related to the fact that the children need to work, including in tourist areas, in order to contribute to the family income. This practice is impacting not only the children concerned and their families, it also has implications for the socio-economic development of the communities and the society. Children who are leaving school early enter the labour market without having acquired a professional qualification. Their chances to fully develop their potentials are reduced and they might find it difficult to break transgenerational cycles of poverty.¹⁶⁴

In Italy, compulsory education applies to Italian and EU citizens as well as third country nationals and is comprised by elementary and secondary education or vocational training up to a total of 12 years. Children have the right to access training schemes that combine work and studies.¹⁶⁵ Non-national children do not need a residence permit in order to enrol in school but they are registered with the personal data of their parents, which might create obstacles for undocumented migrants.¹⁶⁶

In practice, unaccompanied children are not always enrolled in mainstream schools. Due to the limited budget available, special support for their educational integration and learning materials are not always available. They may be sent to Italian language courses or centres for adult education instead. These centres are however not appropriate as they have been designed for a different target group.¹⁶⁷

¹⁶² Detention of minors and families Law 3907/2011, Article 32. Cited in: IMPACT National Report Greece, Chapter 4.2.1.

¹⁶³ European Roma Rights Centre (2011), Parallel Report by the European Roma Rights Centre to the Committee on the Rights of the Child on Greece for its Consideration at the 58th Session, p. 3. National Committee on Human Rights, Annual Report 2008. European Union Agency for Fundamental Rights (2012), Annual Report 2012, Fundamental Rights: Challenges and achievements in 2012, Publications Office of the European Union, Luxembourg, pp. 200-201. Cited in: IMPACT National Report Greece, Chapter 4.2.1.

¹⁶⁴ Greek NGO Network for Children Rights Convention (2011), Non-governmental Organizations' Report in Application of the United Nations Convention on the Rights of the Child, pp. 23-24. KANEP - Center for the Development of Education Policy of GSEE (2009), National Report of Education in Greece, Primary and Secondary Education, Proceedings for school years 2004-2005, 2005-2006, 2006-2007, (in Greek), Athens, October 2009, p. 348. Greek Helsinki Monitor (GHM), Minority Rights Group - Greece (MRG-G), Coordinated Organizations and Communities for Roma Human Rights in Greece (SOKADRE) (2011), Parallel Report on Greece's Compliance with the UN Convention on the Rights of the Child, p. 4. European Commission (2013), Commission Staff Working Document, Assessment of the 2013 National Reform Programme for Greece, pp. 9-10. Cited in: IMPACT National Report Greece, Chapter 4.2.1.

¹⁶⁵ Italy: Law 133/2008. Law 53/2003. Cited in: IMPACT National Report Italy, Chapter 4.2.1.

¹⁶⁶ Italy: Decree of the President of the Republic n° 394 of August 31, 1999, Article 45. Key informant interview GOV, IT 03. Cited in: IMPACT National Report Italy, Chapter 4.2.1.

¹⁶⁷ INDIRE (2013). Istruzione degli adulti. Rapporto di monitoraggio 2012. Available at: http://www.indire.it/lucabas/lkwm_file/Ida///Report_Monitoraggio%20_IDA_2011-12.pdf (accessed October 2013). Key informant interview ORG, IT 01. Cited in: IMPACT National Report Italy, Chapter 4.2.1.



In the mainstream schools, specialised support is not always offered to help non-national children entering the school, acquiring language skills and adjusting to the cultural context. Boys and girls whose immigration status has been regularised only for a limited period of time or until they turn 18 years old, might not have a longer-term formative and personal investment perspective to education. In absence of a perspective, a short-term alternative that may appear more constructive to some children is to seek paid work. When unaccompanied children who are still in compulsory school age have aspirations to become independent by earning their living, the reception and education system is not always prepared to offer targeted solutions that are appropriate for the individual person concerned. The intention of the school enrolment to offer a formative and protective environment risks then to become counterproductive; children may decide to look for informal work opportunities, which might increase the risk that they enter into precarious and possibly exploitative working situations.¹⁶⁸

In Italy, the early school leaving rate exceeds the average EU rate of 15% and is more than double the EU benchmark of 10%. The highest rates are reported from the industrialised centres and the Southern Italian provinces reaching around one fourth of all pupils. With over 40%, non-national students are disproportionately represented among the early school leavers.¹⁶⁹ The rate of Roma children at school has decreased by 3.9% between 2010 and 2012. Roma children are mainly attending primary school, whereas their enrolment in secondary school has decreased by 26% in the same time frame. Reasons of dropping out include difficulties of accessing schools, absence of transportation, as well as prejudices among the Roma communities and school administrations or teachers and the reluctance to follow-up when Roma children cease attending school. School dropouts could be the hallmark of entering into situations of socio-economic marginalisation and exclusion and the children might also be exposed to a higher risk of exploitation, including in the context of trafficking.¹⁷⁰

In Portugal, compulsory schooling is universal and free for a total of 12 years.¹⁷¹ Non-national children have access to the public school system regardless of their status.¹⁷² Child victims of human trafficking or of facilitation of undocumented immigration are entitled to accede the Portuguese educational system, including vocational training, under the same conditions as national citizens.¹⁷³ The school enrolment is essential as it constitutes a precondition for the child and family to access other services such as child benefits.¹⁷⁴

The requirement to register with a qualifications' certificate constitutes however an administrative hurdle to accessing school education or vocational training. Asylum seeking children are not always able to demonstrate their previous school achievements through a certificate. In consequence, they may remain excluded despite their entitlement by law to access education and vocational training. Measures to remove this obstacle for certain groups of children and to facilitate their access have not yet been taken.¹⁷⁵

¹⁶⁸ Key informant interviews MUN, IT 04; YOUNG professional, IT 01. Cited in: IMPACT National Report Italy, Chapter 4.2.1.

¹⁶⁹ Megale A, Teselli A. (2006) *Lavori minorili e percorsi a rischio di esclusione sociale*. Famiglie, istruzione, diritti. Ediesse ed. Roma, 2006. Key informant interview GOV, IT 03. Cited in: IMPACT National Report Italy, Chapter 4.2.1.

¹⁷⁰ Fondazione ISMU (2013), *Alunni con cittadinanza non italiana. Approfondimento e analisi*. Rapporto nazionale A.s. 2011/2012. Quaderni Ismu 1/2012. Available at: <http://www.ismu.org/upload/files/5146ff3fb8c30.pdf> (Accessed October 2013). Key informant interview GOV, IT 06. Cited in: IMPACT National Report Italy, Chapter 4.2.1.

¹⁷¹ Law 85/2009, Government Gazette, 1st Series No.166, 27 August 2009. Law 176/2012, Government Gazette, 1st Series No.149, 2 August 2012. Cited in: IMPACT National Report Portugal, Chapter 4. Development. 3.

¹⁷² Law 67/2004, Government Gazette, 1st Series-A, No.72, 25 March 2004. Cited in: IMPACT National Report Portugal, Chapter 4. Development. 3.

¹⁷³ Law 29/2012, Government Gazette, 1st Series, No. 154, 9 August 2012, Number 3 of Article 114. Cited in: IMPACT National Report Portugal, Chapter 4. Development. 3.

¹⁷⁴ Key informant interview PPROFESSIONALS Young, PT20. Cited in: IMPACT National Report Portugal, Chapter 4. Development. 3.

¹⁷⁵ Key informant interview ORG, PT11. Cited in: IMPACT National Report Portugal, Chapter 4. Participation. 1.



In order to promote the enrolment of undocumented children, the Immigration and Borders Service (SEF) is rolling out the 'SEF goes to school' programme, which aims at identifying undocumented children and regularising their status. The programme is also disseminating information on the legalisation process.

As the Government of Portugal had noted the low educational achievements and high rates of early school leaving among Roma children, the promotion of educational integration became one of the key sectors under the National Strategy for the Integration of Gypsy Communities 2013-2020.¹⁷⁶ One of the objectives is to promote the access of gypsy¹⁷⁷ children to pre-schooling, prevent dropouts and enhance the school enrolment by sensitising the communities to the value of education. The strategy foresees special measures such as the presence of cultural mediators in the school premises and pedagogic strategies that raise the children's motivation, promote their involvement in extracurricular activities, and foster closer partnerships between the school and the Roma communities.¹⁷⁸ The school is considered to offer an important cultural interface between communities.¹⁷⁹

In addition, the project 'Mobile School' was initiated in 2005 to strengthen the educational inclusion of children of workers employed in circuses, fairs or other mobile jobs, as well as Roma children. It was designed as a distance learning project, using a technological platform as a learning aid for pupils in the 2nd and 3rd grades of elementary school. An evaluation of the programme found that it had successfully promoted the school performance of mobile students. It had contributed to adapting the organisational practice and to changing the attitudes of education professionals towards itinerant students and their families and vice-versa. In addition, the programme had managed to offer the students, jointly with the schools involved, an effective vocational orientation.¹⁸⁰

Despite the positive evaluation, the Ministry of Education decided to terminate the programme at the onset of the financial and economic crisis and the related budgetary cuts and reduced human resources.¹⁸¹ The evaluation expressed concern about this decision, even if the Ministry continued to provide for more generic distance learning opportunities. The decision had been taken in August 2010, only a month before the start of the school year, which raised doubts about the feasibility of ensuring a proper transition of students as well as the possibility to integrate the experience and expertise of the teachers who had participated in the programme in the structures of the Ministry.¹⁸² This example illustrates the importance of managing crises in a sensible and balanced way to minimise the negative impact on children, to uphold the important investment in the capacity of professionals and the development of children, including marginalised groups.¹⁸³

¹⁷⁶ Governo de Portugal (2012), *Estratégia Nacional para a Integração das Comunidades Ciganas*, available at: http://www.portugal.gov.pt/media/409258/20111228_consulta_publica_enicc.pdf (accessed December 2013). Cited in: IMPACT National Report Portugal, Chapter 4. Development. 3.

¹⁷⁷ In Portugal, the commonly used terminology is "ciganos" ('gypsies') and although this term has a long history of negative connotations, it continues to be the publicly accepted term used not only in official documents, but also in research and by the gypsy communities who recognise themselves as "ciganos" and not as Roma. Cited in: IMPACT National Report Portugal, Chapter 4. Development. 3.

¹⁷⁸ Governo de Portugal (2012), *Estratégia Nacional para a Integração das Comunidades Ciganas*. Cited in: IMPACT National Report Portugal, Chapter 4. Development. 3.

¹⁷⁹ Governo de Portugal (2012), *Estratégia Nacional para a Integração das Comunidades Ciganas*, p.29. Cited in IMPACT National Report Portugal, Chapter 3.

¹⁸⁰ Brites R. et al. (2011), *Estudo de avaliação e acompanhamento dos ensinos básico e secundário*, Lisboa, CIES/ISCTE. Cited in IMPACT National Report Portugal, Chapter 3.

¹⁸¹ Ordinance 812/2010, Government Gazette, 1st Series, No.166, 26 August 2010. Cited in: IMPACT National Report Portugal, Chapter 3.

¹⁸² Brites R. et al. (2011), *Estudo de avaliação e acompanhamento dos ensinos básico e secundário*, Lisboa, CIES/ISCTE, p. 277. Cited in: IMPACT National Report Portugal, Chapter 3.

¹⁸³ Brites R. et al. (2011), *Estudo de avaliação e acompanhamento dos ensinos básico e secundário*, Lisboa, CIES/ISCTE. Cited in IMPACT National Report Portugal, Chapter 3.



GUARDIANSHIP

Guardians have an important role in supporting unaccompanied children in exercising their rights. They promote the best interests of the child as a guiding principle in all decision taking processes. A guardian who is competent and mandated to fulfil this role acts as an important mediator between the interests and views of a boy or a girl and the authorities and service providers. Considering the direct interaction with the child and the authorities, guardianship offers an important potential for a case-by-case, individual monitoring role. A unified guardianship model is not in place in the countries studied by IMPACT and different standards apply to different groups of children.

In Cyprus, guardianship for children deprived of family care is regulated under the Children's Law and applies equally to unaccompanied asylum seeking children under the Refugee Law. The term 'guardian' refers to a person appointed by a will or by a court order. The primary duty of the guardian is to promote the best interests of the child.¹⁸⁴ More specifically, guardians are mandated to ensure that the child's concerns are taken into consideration, that the child has access to care, accommodation, education and interpretation, and that the child is legally represented and supported in procedures related to his or her protection. The guardian is obligated to work with the child in an effort to trace his or her family, which could eventually mean the reunification of the family; assist the child in maintaining contact with his/her family; support the child in contact with the authorities and organisations that provide services. The scope of the mandate requires that the guardian is attached to an institutional context with the competence to carry out these complex tasks. All the appointed guardians are social welfare officers or psychologists employed by the Department of Social Welfare Services.¹⁸⁵

In addition to the guardian, unaccompanied asylum seeking children have a right to have a representative appointed under the Refugee Law in order to offer legal assistance during the asylum procedure. A representative must be appointed 'as soon as possible' but the role of the representative is defined only with regard to providing legal assistance to the child in the asylum interview. Thus far, this right has not yet been guaranteed in practice, mainly due to a lack of qualified representatives.¹⁸⁶ In 2009, the Refugee Law mandated the Commissioner for Children's Rights to act as 'representative and advocate' of unaccompanied children during the asylum procedure. This function remained dysfunctional up to 2013, as the Asylum Service had objected to the use of external lawyers to act as representatives hired by the Children's Commissioner. Due to the absence of appropriate legal representation, the Asylum Service has stopped the examination of asylum applications of unaccompanied children since 2009.¹⁸⁷

Law reform in 2013 referred the responsibility for representation back to the Social Welfare Services, without however providing clarity on the legal representation. Whereas the social workers provide important support to the children, they are neither trained nor authorised to act as legal representatives of the child during the asylum interview or at court. The law is therefore contradictory, leaving an important protection gap for the children concerned.¹⁸⁸

In Greece, guardianship for children deprived of their family care is regulated under the Civil Code.

¹⁸⁴ Cyprus: Law on Children Cap. 352. Article 12(1). Trimikliniotis, N., Demetriou, C. (2008), Thematic Study on Child Trafficking – Cyprus, European Union Agency for Fundamental Rights, p.18. Cited in: IMPACT National Report Cyprus, Chapter 4.3.1.

¹⁸⁵ Law No. 6(I) of 2000, last amended 2013. Cited in: IMPACT National Report Cyprus, Chapter 4.3.1.

¹⁸⁶ United Nations Committee on the Rights of the Child (2012c), Consideration of Reports submitted by States parties under article 44 of the Convention, Concluding Observations: Cyprus, CRC/C/CYP/CO/3-4, p.10. Refugee Law section 10. Cited in: IMPACT National Report Cyprus, Chapter 4.3.1.

¹⁸⁷ Cyprus: Article 10(1B) of Law 122(I) of 2009. Cited in: IMPACT National Report Cyprus, Chapter 4.4.2.

¹⁸⁸ Cyprus: Article 10(1B) of Law 9(I)/2013. Key informant interview ORG, CY01. Cited in: IMPACT National Report Cyprus, Chapter 4.3.1.



For national and resident children, the Civil Code provides for guardianship by members of the child's extended family, if and as possible, or by another suitable person or a child care institution. The guardian is appointed by a court decision. Where a guardian cannot be immediately identified, the Head of Social Services takes on the role temporarily. The same provisions apply to unaccompanied non-national children, with the exception that the juvenile prosecutor is appointed as a temporary guardian and is tasked to take the 'appropriate measures' for the appointment of a suitable permanent guardian for unaccompanied children. In the absence of the juvenile prosecutor, the competent first instance public prosecutor takes on this role. In case of migrant children who do not have their habitual residence in Greece, the court can appoint a temporary guardian as a precautionary measure provided for under the Civil Code.¹⁸⁹

In addition to temporary guardianship, unaccompanied children, including asylum seeking children and child victims of trafficking, are entitled to have a permanent guardian appointed.¹⁹⁰ The duties of a guardian are the same in cases of national or non-national children. A guardian is tasked to take care of the child, provide advice, ensure the child has access to health care, education, social security and housing, to represent the child in any legal or judicial proceedings and to act in his/her best interests. The guardian's performance is to be monitored by a supervisory council.¹⁹¹

Although the guardianship model provided for by law provides important safeguards for children, it leaves room for interpretation and a margin of discretion, and is not effectively applied in practice.¹⁹² As the mandate of the temporary guardian in relation to unaccompanied children has not been clearly defined by law, there are differing views and interpretations of the tasks of prosecutors as temporary guardians. The law remains vague, for instance, on the duration of the temporary guardianship and states only that "in the long term it is imperative to appoint a permanent guardian". The timely appointment of a permanent guardian would however be indispensable as temporary guardians are neither mandated nor prepared to promote the best interests of the child.¹⁹³

In 2012, Human Rights Watch reported that individual juvenile prosecutors acting as temporary guardians did not have a clear understanding of the scope of their mandate and considered it to be mainly of administrative nature. The responsibility for identifying a suitable permanent guardian is understood to rest with NGOs. A state agreement with NGOs to take on this responsibility is however not in place. The role of a juvenile prosecutor as temporary guardian is further obscured when the child is placed in administrative detention, which is not uncommon in Greece (see Chapter 5.e). In addition, the limited human resources available for prosecutors' offices are not prepared to handle the high caseload.¹⁹⁴ The procedures to ensure the representation of unaccompanied children by a guardian depend therefore significantly on the discretion of the prosecutor and on the support network of NGOs or social services that the latter may have at his or her disposal.

¹⁸⁹ Greece Civil Code, Articles 1589-1657. Law 2447/1996 on Adoption, Supervision and Sponsorship of minor, legal supervision, legal authority etc, Official Gazette of the Hellenic Republic Vol A' No 278. Article 19, par. 1 of the P.D. 220/2007. Cited in. IMPACT National Report Greece, Chapter 4.3.1.

¹⁹⁰ Presidential Decree 220/2007: Adaptation of the Greek Legislation to the Provisions of the Council Directive 2003/9/EC of 27 January 2003 laying down the minimum standards for the reception of asylum seekers (Official Journal of the Hellenic Republic L 31 of 6 February 2003) (Official Gazette of the Hellenic Republic 2008 Issue A' No.84). Cited in. IMPACT National Report Greece, Chapter 4.3.1.

¹⁹¹ Greek Civil Code and Presidential Decree 220/2007, Official Gazette of the Hellenic Republic, Vol.A', No. 251, 13 November 2007, Article 19. Greek Civil Code Article 1634. Cited in. IMPACT National Report Greece, Chapter 4.3.1.

¹⁹² Human Rights Watch 2012. Cited in. IMPACT National Report Greece, Chapter 4.3.1.

¹⁹³ Human Rights Watch (2008), *Left to Survive, Systematic Failure to Protect Unaccompanied Migrant Children in Greece*, p.26. Greek NGO Network for Children Rights Convention (2011), *Non-governmental Organizations' Report in Application of the United Nations Convention on the Rights of the Child*. Dimitropoulou, G., Papagewrgiou, I. (2008), *Unaccompanied Minors Asylum Seekers in Greece*, UNHCR Office in Greece, Athens, p. 51-52 Cited in. IMPACT National Report Greece, Chapter 4.3.1.

¹⁹⁴ Human Rights Watch (2008), *Left to Survive, Systematic Failure to Protect Unaccompanied Migrant Children in Greece*, p.26. Greek NGO Network for Children Rights Convention (2011), *Non-governmental Organizations' Report in Application of the United Nations Convention on the Rights of the Child*. Dimitropoulou, G., Papagewrgiou, I. (2008), *Unaccompanied Minors Asylum Seekers in Greece*, UNHCR Office in Greece, Athens, p. 51-52. Cited in. IMPACT National Report Greece, Chapter 4.3.1.



The minimum age for unaccompanied children to file an asylum application in Greece is 14 years old, if the child is considered sufficiently mature to understand the procedure. The decision to assess the child's maturity is under the responsibility of the police official who is filing the application, whereas social workers are not involved in that process or assessment. A child who is deemed mature enough is not obliged to be represented in the asylum procedure by his or her guardian and the guardian is only informed about the application for children up to 15 years of age. The right of the child to be supported by a guardian is therefore weakly pronounced and often results in an absence of representation. Children under 14 years of age can submit an asylum application only through their guardian. As the appointment of guardian is however not guaranteed in practice, younger children risk being deprived of their rights in a double sense.¹⁹⁵

In Italy, guardianship is regulated under the Civil Code and the provisions apply to national and non-national children. Guardians for children deprived of family care are appointed by the competent Tutelary Judge upon notification from the local social services, staff of child care institutions, police officers, family members or others.¹⁹⁶ In cases of adoption or when a child is considered 'abandoned', the Juvenile Court appoints a guardian. As there is a significant margin of interpretation which children are considered 'abandoned', the institutional responsibilities for appointing a guardian vary.¹⁹⁷

For unaccompanied children, there are two different types of guardians: voluntary guardianship and institutional guardianship exercised by a representative of the municipality or the local social services where the child resides.¹⁹⁸ Whereas voluntary guardians are not being paid, institutional guardians exercise the guardianship role as part of their professional mandate. The Civil Code provides that special expenses can be reimbursed.¹⁹⁹

The staff of private and public reception facilities cannot act as guardians but are entitled to act as provisional guardians until a guardian has been appointed. The provisional guardianship supports a child when the appointment of a guardian is being delayed, which can in some cases take up to several months. The Association of Italian Municipalities reported in 2010 that approximately only two thirds of all unaccompanied asylum seeking children in the second reception phase had been appointed a guardian. The appointment of a guardian is however essential for the child to fully exercise his or her rights. A guardian is required, for instance, for a child to apply for a residence permit.²⁰⁰

Under the Civil Code, a guardian is tasked to take decisions relating to the child's welfare, upbringing and education. A guardian shall respond to the child's personal, emotional and health needs, taking into account the capacities and aspirations of the child. A guardian takes on the parental duties and plays an important

195 Human Rights Watch (2008), *Left to Survive, Systematic Failure to Protect Unaccompanied Migrant Children in Greece*. Cited in: IMPACT National Report Greece, Chapter 4.3.1.

196 Civil Code Article 343; Law n°. 183/1984 as modified by Law n°. 149/2001, Article 10, para. 3, and Articles 11 and 19. Turri, G. C. (2004), *Un tutore per i minori stranieri non accompagnati*, Paper presented at the conference on "L'infanzia "privata", Il ruolo tutela dell'adulto, Ancona. Rozzi, E. (2008), *The situation of EU and non-EU separated children in Italy*, E-Migrinter, No. 2, pp. 13-26, 2008. Tarzia, G. (2008), *Il minore straniero non accompagnato: quale tutela nel sistema legislativo italiano?*, *Minorigiustizia*, No. 3, pp. 188-196. Giovannetti, M. (2009), *L'accoglienza incompiuta, Le politiche dei comuni italiani verso un sistema di protezione nazionale dei minori stranieri non accompagnati*, il Mulino, Bologna. Cited in: IMPACT National Report Italy, Chapter 4.4.2.

197 Civil Code Article 343; Law n°. 183/1984 as modified by Law n°. 149/2001, Article 10, para. 3, and Articles 11 and 19. Turri, G. C. (2004), *Un tutore per i minori stranieri non accompagnati*, Paper presented at the conference on "L'infanzia "privata", Il ruolo tutela dell'adulto, Ancona. Rozzi, E. (2008), *The situation of EU and non-EU separated children in Italy*, E-Migrinter, No. 2, pp. 13-26, 2008. Tarzia, G. (2008), *Il minore straniero non accompagnato: quale tutela nel sistema legislativo italiano?*, *Minorigiustizia*, No. 3, pp. 188-196. Giovannetti, M. (2009), *L'accoglienza incompiuta, Le politiche dei comuni italiani verso un sistema di protezione nazionale dei minori stranieri non accompagnati*, il Mulino, Bologna. Cited in: IMPACT National Report Italy, Chapter 4.4.2.

198 Defence for Children International Italia (2011), *Closing a Protection Gap: Core standards for guardians of separated children in Europe*, Italian National Report, 2010-2011, Daphne III Project, Defence for Children International – Italy. Cited in: IMPACT National Report Italy, Chapter 4.4.2.

199 Civil Code Article 379, *Save the Children Italia* (2012), *I primi 180 giorni del Garante Infanzia*. Cited in: IMPACT National Report Italy, Chapter 4.4.2.

200 Art. 3, para. II of Law 184/1983. Rozzi, E. (2008), *The situation of EU and non-EU separated children in Italy*, E-Migrinter, No. 2, pp. 13-26, 2008. Defence for Children International Italia (2011), *Closing a Protection Gap: Core standards for guardians of separated children in Europe*, Italian National Report, 2010-2011, Daphne III Project, Defence for Children International – Italy. Associazione Nazionale Comuni Italiani (2012), *I minori stranieri non accompagnati in Italia, IV. Rapporto ANCI Citalia*, Rome. Cited in: IMPACT National Report Italy, Chapter 4.4.2.



role in every day matters. The guardian supports the child in administrative matters and acts as the child's representative in civil and criminal proceedings. A guardian is tasked to ensure that a lawyer is hired should a child be a victim of crime or when a child has been charged with a criminal offence. The guardian is entitled, in these cases, to accompany the child to court hearings as a support person and can appeal against decisions.²⁰¹ In addition, a guardian manages the child's financial affairs.²⁰² The latter task implies that guardians have to present the inventory of the child's possessions to the Tutelary Judge, to keep the child's accounts and to submit an annual financial report. In case of voluntary guardians, these tasks are carried out by the institutions organising the training courses for guardians.²⁰³ The Civil Code does however not bestow guardians with a general mandate to promote the best interests of the child, which would be essential, including in cases of unaccompanied asylum seeking children and victims of trafficking.²⁰⁴ In the case of unaccompanied asylum seeking children, the guardian has to sign the child's asylum application. The guardian is further tasked to assist the child during the asylum procedure and to keep the child informed. The guardian can appeal decisions on the asylum application or assisted return. Although the law provides that the guardian for an unaccompanied asylum seeking child has to be appointed within 48 hours, the procedure often requires more time.²⁰⁵

Some local and regional initiatives provide training, supervision, monitoring and legal support for voluntary guardians. Some of these initiatives have entered into a formal agreement with the judiciary authorities competent for appointing guardians. By developing a roster of trained volunteer guardians, the appointment can be accelerated. Where these local initiatives are embedded into a formalised procedure for the cooperation and coordination of all actors involved, they are likely to be more sustainable and effective.²⁰⁶ It would be important to evaluate these initiatives and to disseminate the findings to inform the public debate. Successful initiatives should be taken to scale and institutionalised country-wide.

In Portugal, guardianship for national and resident children is regulated by the Civil Code. A guardian is appointed through a judicial decision. Guardianship for children deprived of parental care is permanent, whereas children who are considered at risk and are therefore referred to an institution have a temporary guardian appointed for the duration of their stay in the institution. This applies also to child victims of trafficking and unaccompanied asylum seeking children. In these cases, it is usually the Director of the institution, or another appropriate professional at the institution who exercises guardianship, often over several children. A guardian is taking on parental responsibilities and is responsible for decisions concerning day-to-day matters. During the child's stay in an institution, the guardian is responsible for the child's representation in the contact with relevant authorities to ensure that the rights and needs of the child are being respected, including with regard to education and health care, in accordance with the court decision. Decisions that do not concern the day-to-day care of the child, require the authorisation from the Family and Children's Court.²⁰⁷

201 Decree of the President of the Republic no. 448/1988 . Turri, 2004. Cited in: IMPACT National Report Italy, Chapter 4.4.2.

202 Civil Code art. 357, art. 147. Cited in: IMPACT National Report Italy, Chapter 4.4.2.

203 Civil Code Articles 362 and 380. See also: Pubblico Tutore dei minori - Regione Veneto (2009), Orientamenti per i tutori legali dei minori di età. Funzioni, responsabilità e buone prassi. Quaderni. Linee guida e orientamenti per la promozione e la cura dell'infanzia e dell'adolescenza, No. 3, pp. 1-186, 2009. Defence for Children International Italia (2011), Closing a Protection Gap: Core standards for guardians of separated children in Europe, Italian National Report, 2010-2011, Daphne III Project, Defence for Children International – Italy. Cited in: IMPACT National Report Italy, Chapter 4.4.2.

204 Defence for Children International Italia (2011), Closing a Protection Gap: Core standards for guardians of separated children in Europe, Italian National Report, 2010-2011, Daphne III Project, Defence for Children International – Italy. Cited in: IMPACT National Report Italy, Chapter 4.4.2.

205 Directive of the Ministry of the Interior of the 7th of December 2006 and art. 26 of Legislative Decree no. 25/2008. ASGI - Associazione di Studi Giuridici sull'Immigrazione (2011), Il diritto alla protezione: la protezione internazionale in Italia quale futuro? Studio sullo stato del sistema asilo in Italia e proposte per una sua evoluzione, FONDO EUROPEO PER I RIFUGIATI 2008-2013, Programma annuale 2009 - Azione 2.1.A. Civil Code Articles 348 and 147. Cited in: IMPACT National Report Italy, Chapter 4.4.2.

206 Defence for Children International Italia (2011), Closing a Protection Gap: Core standards for guardians of separated children in Europe, Italian National Report, 2010-2011, Daphne III Project, Defence for Children International – Italy. Defence for Children International Italia (2012), GATE: Guardians Against Trafficking and Exploitation. National Report Italy. Cited in: IMPACT National Report Italy, Chapter 4.4.2.

207 Civil Code as from Article 1878, 1921 onwards. Portugal: Article 49 in Law 147/99 of 1 September. Cited in: IMPACT National Report Portugal, Chapter 4. Protection.2.



WORK AND EMPLOYMENT

All four countries studied by IMPACT have established a legal minimum age and safety conditions for children to enter work and employment, whereas harmful and exploitative working conditions are prohibited in light of the standards set by the ILO. The minimum age for employment is 15 years in Cyprus and Greece, and 16 years in Portugal and Italy.²⁰⁸

Despite the regulation by law of the formal working conditions of children over 15 or 16 years of age, informal working situations that national and non-national children are involved in remain largely unaddressed.²⁰⁹ A loophole in Cyprus is the domestic work of children. The law does not provide for an obligation to register domestic workers who are underage and, in consequence, labour inspectors do not have access to this specific risk group.²¹⁰

In Greece, children who are registered as asylum seekers or refugees have the right to work as of 15 years of age, as national children do. They have to apply for a child employment card, for which they require the consent of a parent or guardian. For unaccompanied children, this requirement poses an often insurmountable hurdle as their parents are not present to give consent and the appointment of a guardian is often delayed or guardians may not be aware of their duty in this regard.²¹¹

The Greek Ombudsman estimates that the number of children working illegally in the country is very high, although official data are not available. There is a stark discrepancy between the official data on the number of employment booklets issued to children (1,462 booklets in 2010 and only 562 in 2012, according to the Ministry of Labour) and the official estimates published by the National Statistical Authority of 12,764 teenage workers (15-18 years old) in 2010, 8,886 in 2011 and 6,238 in 2012. The Greek Ombudsman suggests that the reduction in numbers cannot necessarily be interpreted as a reduced number of working children but might be indicative of a significant reduction in licensed employment of children during the peak of the crisis. Uninsured labour is cheaper and there is a rather high level of tolerance of child labour. In addition, only very few labour inspections are taking place due to a shortage of human resources.²¹² Considering the school dropout rate of approximately 32,000 students per year (in 2008) and estimations of the Pedagogical Institute that 70% of children dropping out of school enter the labour market, the Greek Ombudsman estimates that there might be over 100,000 underage workers in Greece.²¹³

Children living and working on the streets is a common phenomenon in Greece and concerns EU

208 Cyprus: Laws of 2001 and 2012 on the Protection of Young Persons at Work (L. 48(I)/2001). United Nations Committee on the Rights of the Child (2012c), Consideration of Reports submitted by States parties under article 44 of the Convention, Concluding Observations: Cyprus, CRC/C/CYP/CO/3-4, p.12. Cited in: IMPACT National Report Cyprus, Chapter 4.2.3. Greece: Presidential Decree No. 62/1998: Measures for the protection of children into work, in compliance with the directive 94/33/EK (Official Gazette of the Hellenic Republic 2008 Issue A' No.84). Cited in: IMPACT National Report Greece, Chapter 4.2.2. Italy: Legislative Decree no. 345 of August 4, 1999, transposing Directive 94/33/EC on the protection of young people at work. Article 1, comma 622, of Financial Act 2007 (L. nr 296/2006). Cited in: IMPACT National Report Italy, Chapter 4.2.3. Portugal: Labour Code, Articles 66 to 83. Cited in: IMPACT National Report Portugal, Chapter 4. Development.3.

209 Greek NGO Network for Children Rights Convention (2011), Non-governmental Organizations' Report in Application of the United Nations Convention on the Rights of the Child. Cited in: IMPACT National Report Greece, Chapter 4.2.2.

210 United Nations Committee on the Rights of the Child (2012c), Consideration of Reports submitted by States parties under article 44 of the Convention, Concluding Observations: Cyprus, CRC/C/CYP/CO/3-4, p.12. Cited in: IMPACT National Report Cyprus, Chapter 4.2.3.

211 The Greek Ombudsman (2012), Parallel Report to the UN Committee on the Rights of the Child, Findings and recommendations of the Independent Authority "The Greek Ombudsman" on the implementation of Children's Rights in Greece, July 2003 – December 2011, p. 19. Dimitropoulou, G., Papageorgiou, I. (2008), Unaccompanied Minors Asylum Seekers in Greece, UNHCR Office in Greece, Athens. Cited in: IMPACT National Report Greece, Chapter 4.2.2.

212 ELSTAT (2012), Greek Statistical Service. The Greek Ombudsman (2012), Parallel Report to the UN Committee on the Rights of the Child, Findings and recommendations of the Independent Authority "The Greek Ombudsman" on the implementation of Children's Rights in Greece, July 2003 – December 2011, p. 20. Cited in: IMPACT National Report Greece, Chapter 4.2.2.

213 Hellenic National Committee for UNICEF (2012), The State of the Children in Greece 2012 Report, Summary. The Greek Ombudsman (2012), Parallel Report to the UN Committee on the Rights of the Child, Findings and recommendations of the Independent Authority "The Greek Ombudsman" on the implementation of Children's Rights in Greece, July 2003 – December 2011, p. 22. Cited in: IMPACT National Report Greece, Chapter 4.2.2



citizens, especially Roma children from Bulgaria and Romania, as well as Albanians and other third-country nationals. The children are often younger than 16 years of age and are involved in street vending, offering services at traffic lights, or begging. During the last three months of 2012, the organisation ARSIS²¹⁴ recorded 187 child-beggars in the centre of Athens and 400 in Thessaloniki.²¹⁵ As begging constitutes a criminal offence, the children are at risk of being considered in conflict with the law rather than potential victims of exploitation, or simply children who should be in school rather than on the streets. Exploitation is difficult to prove, especially when the child's parents are involved. There is thus far no effective strategy to address the situation of the children on the streets and to ensure that they enjoy their rights to education, health, and a safe environment.²¹⁶

In Portugal, the use or involvement of children in begging is prohibited under the Penal Code, including in situations where adults are begging accompanied by a child.²¹⁷ In Cyprus, children who are involved in begging and spending much time on the streets are considered children in need of care and are entitled to special protection measures by the Social Welfare Office. The Law on Children allows Social Welfare Services to intervene and take the child into care if this is regarded necessary for the child's welfare. This applies also to children who are homeless and who are involved in begging, with or without music or artistic performances on the street.²¹⁸

In Italy, non-national children who have a regular immigration status are entitled to access the labour market on the same terms as Italian children. This applies to children who have been granted a residence permit for family reasons or fostering. Asylum seeking children are entitled to work only after six months have passed from handing in their asylum application. For children who are staying on a residence permit for 'minor age', the issuing of a work permit is not clearly regulated. A memorandum issued by the Ministry of Interior in 2000 excluded the possibility to work, which constitutes a differential treatment of children on the grounds of status.²¹⁹

Statistics and estimates of working children differ significantly between the different data sources. There is currently no standardised mechanism for the reporting, gathering and analysis of national data on children's involvement in work in Italy.²²⁰ There is also no targeted strategy to address child labour in Italy, although there is information to suggest that children are exposed to exploitative working situations, some of which might constitute trafficking.²²¹

In 2006, Save the Children and IRES reported that an estimated 410,000-420,000 children were working, among whom 70,000-80,000 were estimated to be non-nationals. In 2013, Save the Children and the Bruno Trentin Association published the results of a survey on the working conditions of children in Italy. The survey found that 5.2% of children under 16 years of age (equivalent to an estimated 260,000 children) were involved in work. Among them, 72.3% were over 13 years old and 54% were boys. 74% of the children worked for their family, including helping parents in their professional

214 ARSIS, available at: <http://www.arsis.gr>. Cited in: IMPACT National Report Greece, Chapter 4.2.2.

215 The Greek Ombudsman (2012), Parallel Report to the UN Committee on the Rights of the Child, Findings and recommendations of the Independent Authority "The Greek Ombudsman" on the implementation of Children's Rights in Greece, July 2003 – December 2011, p. 20. Kantouris (2013), Η αστυνομία δεν συλλαμβάνει προαγωγούς, επειδή είναι γονείς τους!, Lifo, 8 March 2013. Cited in: IMPACT National Report Greece, Chapter 4.2.2.

216 Greek Criminal Code, Article 407. Cited in: IMPACT National Report Greece, Chapter 4.2.2.

217 Penal Code (Law No. 59/2007), Government Gazette, 1st Series, No. 170, 4 September 2007, amended by Law No. 60/2013 of 23 August 2013, Article 296. Cited in: IMPACT National Report Portugal, Chapter 4.Development.3.

218 Cyprus, Law on Children Cap. 352, Article 3 and Articles 63(1)(a) and 63(2). Trimikiniotis, N., Demetriou, C. (2008), Thematic Study on Child Trafficking – Cyprus, European Union Agency for Fundamental Rights, p.18. Cited in: IMPACT National Report Cyprus, Chapter 4.4.1.

219 Memorandum of the Ministry of Interior (n° 300 of November 13, 2000). Law n° 189 of July 30, 2002, Article 25. Legislative Decree n° 109 of July 16, 2012. Cited in: IMPACT National Report Italy, Chapter 4.2.3.

220 Key informant interview GOV, IT 04. Cited in: IMPACT National Report Italy, Chapter 4.2.3.

221 Key informant interview ORG, IT 05. Cited in: IMPACT National Report Italy, Chapter 4.2.3.



activities or in the household. 12.8% worked for relatives or friends, and the remaining 13.8% worked for third persons. About a quarter of the children worked every day or almost every day, slightly over a third were working some days per week. 60% of the children were working for more than 2 hours a day, and 24.3% worked for more than 4 hours a day. 2.1% of the children had stopped attending school. Less than half of the children earned money through their work and 15% were considered at risk of exploitation or hazardous working conditions.²²² Approximately 11% of the children considered the work they were carrying out as hazardous or a little hazardous.²²³

Experience from Portugal suggests that it is important to recognise and understand the scope and forms of child labour in order to address it effectively. The Integrated Education and Training Programme (PIEF) initiated in 1999 achieved significant success in reducing child labour in Portugal. PIEF aimed to enable children who were not in compulsory school age and involved in labour to obtain a certificate of school graduation or professional training. The objective was to facilitate their entry into the regular labour market. The programme foresees that an individual and flexible education and training plan is developed for each child. The programme is today integrated into the Programme for Inclusion and Citizenship to ensure its continuity.²²⁴

A certain degree of social acceptance of child labour as well as an established cultural attitude of condoning unregistered and informal working conditions in general is considered an obstacle to addressing child labour effectively. These attitudes have an impact on the longer-term prevention and identification of situations of exploitation and trafficking. It is therefore important to understand measures to address child exploitation and trafficking within the broader socio-cultural traditions, perceptions and attitudes, not only with regard to childhood but also in regard to effective governance structures, legality and rule of law, all values deeply enshrined in the European institutional framework.²²⁵ Thus far, responses against exploitation and trafficking are however commonly focused on addressing the situation of the children concerned rather than sensitising also the community structures within which precarious and potentially exploitative working conditions of children may be visible and condoned. The need for more sensitisation, addressing discriminatory stereotypes and ethnic prejudice, needs to be addressed also when it comes to tackling the involvement of children in street based activities.

The discussion in this chapter revealed that many laws and policies in the sectors of health, education, guardianship and work are designed in a way that is inclusive of all children present on the state's territory, regardless of their status. Children are by law protected from discrimination, although this protection is afforded in relation to specific sectors and grounds of discrimination. A general prohibition of discrimination has been enacted into law only in Cyprus. The prohibition of discrimination on the grounds of status is afforded under CRC Article 2, which forms part of the national law in all four countries, but has not been explicitly translated into the anti-discrimination laws, nor has it been mainstreamed into sectoral laws on children. In practice, there remain instances where children are prevented from exercising their rights, including on status-related matters. The groups of children who are most at risk of exclusion and discrimination are children belonging to the Roma communities and non-national children who are undocumented or whose permit of stay has been revoked. Major

²²² Definition: They work in evening or nocturnal time slots and/or carry out a continuous work and fulfill at least one of the following characteristics: stop going to school or work interferes with school or work leaves no time for friends and for rest, work is defined as moderately hazardous. Note that the date were published as 'preliminary results'. Cited in: IMPACT National Report Italy, Chapter 4.2.3.

²²³ Save the Children, Associazione Bruno Trentin (2013). Game over. Indagine sul lavoro minorile in Italia. Dati preliminari. Giugno 2013. Available at: http://images.savethechildren.it/IT/it/img_pubblicazioni/img211_b.pdf (accessed October 2013). See page 1, 2 for methodological explanations. Cited in: IMPACT National Report Italy, Chapter 4.2.3.

²²⁴ Key informant interview ORG, PT14. Order 948/2003, Government Gazette, 2nd Series, No.223, 26 September 2003. Resolution of the Portuguese Council of Ministers 79/2009, Government Gazette, 1st Series, No.170, 2 September 2009. Ordinance 272/2012, Government Gazette, 1st Series, No.171, 4 September 2012. Cited in: IMPACT National Report Portugal, Chapters 4.Development.1 and 3.

²²⁵ Key informant interview ORG, IT 05. Cited in: IMPACT National Report Italy, Chapter 4.2.3.



obstacles for children to access services and exercise their rights are presented by practical and administrative hurdles, as well as prevailing stereotypes and prejudices. Exclusion or discrimination might expose children to a higher risk of exploitation. There is clearly a need for more consistent measures to remove obstacles that prevent certain groups of children from enjoying their rights, and to facilitate the access of all children to the services and rights they are entitled to.

C. NATIONAL CHILD PROTECTION SYSTEMS: THE STRUGGLE TO DELIVER SERVICES THAT ARE APPROPRIATE AND EFFECTIVE

Whereas the previous chapter discussed the inclusiveness of child rights policy from a perspective of anti-discrimination laws and specific policy sectors, this chapter continues the discussion for the context of the national child protection systems. It analyses to which extent the national child protection systems are contributing to promoting inclusion through child protection and social welfare services.

The IMPACT approach suggests that a key determinant for effective policy making and implementation is the capacity to deliver services that are appropriate and effective. In fact, previous research has evidenced that child protection services in support of victims of trafficking are not always considered appropriate by the target group and might therefore be rejected.²²⁶ Where services and procedures fail to ensure that vulnerable children are identified and referred effectively, there is a risk that exploitation and trafficking continues unabatedly. The central interest of this chapter is therefore to assess, through selected examples from the four countries, the effectiveness of the national child protection systems and how they operate in practice for different groups of children.

The discussion focuses on key aspects of national child protection systems, such as the national laws and policies on child care and protection, the referral mechanisms for children at risk and child victims, and the availability of standardised procedures. The best interests of the child and the right of the child to be heard are considered fundamental safeguards to ensure a rights-based approach that values the individual situation of each child and aims to identify solutions that are appropriate to the boy or girl concerned.

REFERRAL OF CHILDREN AT RISK AND CHILD VICTIMS

The status of national child protection systems and their operation in practice varies significantly between the four countries. As an important basis, all four countries have enacted laws on child protection and care that are inclusive and apply to each child who is present on the country's territory, regardless of the child's status. A major challenge remains however the development of a functional mechanism for the identification and referral of children at risk and child victims.

In Cyprus, the national law regulating the protection of children deprived of family care defines a 'child in need of care or protection' as "a person under the age of sixteen who has no parent or guardian [... and who] requires care or protection".²²⁷ This broad provision is inclusive of many different situations in which unaccompanied children may be at risk of exploitation, including undocumented children. All unaccompanied non-national children are under the protection of the Social Welfare Services, as national children are. Unaccompanied children are accommodated in state institutions or in foster

²²⁶ See for instance: United Nations Children's Fund Innocenti Research Centre (2012), *Child Trafficking in the Nordic Countries, Rethinking strategies and national responses*, A Technical Report, Florence, p. 40.

²²⁷ Trimikliniotis, N., Demetriou, C. (2008), *Thematic Study on Child Trafficking – Cyprus*, European Union Agency for Fundamental Rights, p.18. Cited in: IMPACT National Report Cyprus, Chapter 4.4.1.



families of the same national or cultural background if possible. There is however no evidence that translation, cultural mediation, psycho-social services or counselling are offered. A specialised shelter for trafficked children or unaccompanied asylum seeking children is not in place in Cyprus and is not considered necessary since the number of cases is low.²²⁸

In Greece, a comprehensive and standardised system for the identification and referral of unaccompanied children, children at risk and child victims, and procedures for an individual case and needs assessment are not yet in place. Key informants noted that children are mainly referred through the contacts between individual professionals and officials.²²⁹

“There is no such thing as a protection system.” (Greece)²³⁰

In Italy, the national laws on child care and protection apply to all children within the country regardless of their nationality or status. In practice, however, the delivery of protection services is considered less inclusive. The protection and care of children, national or non-national, falls under the responsibility of the competent judicial authorities for child protection, i.e. the Juvenile Court, Juvenile Prosecutor and Tutelary Judge, and of the social services provided by local authorities. The municipality where a child is present is responsible for arranging and financing placement and care, including through cooperation agreements with private service providers.²³¹

In practice, placement procedures differ depending on the child's situation when he or she comes into contact with the authorities and on the procedure adopted at the local level. The responsibility for referring a child into care may rest with the local social services or the police.²³² Cases of unaccompanied children who are not seeking asylum need to be reported not only to the local authority and the judicial authorities but also to the Directorate-General on Immigration and Integration Policies of the Ministry of Labour and Social Policies. The Directorate-General is responsible for collecting data and information on unaccompanied children who are not seeking asylum, verifying their status and identity, contacting their families and arranging their return if and as appropriate. Cases of unaccompanied asylum seeking children are reported to the Central Service of the System of Protection for Asylum-Seekers and Refugees (SPRAR)²³³ in order to include them into the reception services provided by SPRAR.²³⁴ A special procedure applies for unaccompanied children from Romania according to the 2008 Triennial Agreement between Italy and Romania on cooperation for the protection of unaccom-

²²⁸ The Commissioner for the Protection of Children's Rights (2011), Report of the Commissioner for Children's Rights in Cyprus to the UN Committee on the Rights of the Child Supplementary Report to the 3rd and 4th Periodic Report of Cyprus, p. 33. Cited in: IMPACT National Report Cyprus, Chapter 4.1.1.

²²⁹ United Nations Committee on the Rights of the Child (2012), Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Greece, CRC/C/GRC/CO/2-3, 13 August 2012, pp. 8-9. Key informant interviews GOV, GR07, GOV, GR04. Cited in: IMPACT National Report Greece, Chapter 4.4.1.

²³⁰ Key informant interview GOV, GR04. Cited in: IMPACT National Report Greece, Chapter 4.4.1.

²³¹ Tarzia, G. (2008), Il minore straniero non accompagnato: quale tutela nel sistema legislativo italiano?, *Minorigiustizia*, No. 3, pp. 188-196. Defence for Children International Italia (2011), Closing a Protection Gap: Core standards for guardians of separated children in Europe, Italian National Report, 2010-2011, Daphne III Project, Defence for Children International – Italy. Key informant interview ORG, IT 03. Decree of the President of the Republic No. 616/1997. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²³² Progetto Equal Palms (2007), *Strumenti e ricerche*, Vol. II, Pratiche di accoglienza II, Identificazione, regolarizzazione, tutela e affidamento, Rome. Villa, L. (2008), Il collocamento dei minori non accompagnati, *Minorigiustizia*, No. 3, pp. 208-217. United Nations High Commissioner for Refugees (2012), *Protecting Children on the Move*, Addressing protection needs through reception, counseling and referral, and enhancing cooperation in Greece, Italy and France. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²³³ The SPRAR is comprised of local municipalities whose local projects are selected through a call for project proposals and co-funded by the National Fund for Asylum Policies and Services. The aim of the System is to support the implementation of projects by promoting the development of an “integrated reception” system for asylum-seekers and refugees, including appropriate placement, information, legal support, interpretation/cultural mediation, health care, education services and socio-economic integration measures. Within this System, special projects for separated children are run in order to answer to their specific needs for safe accommodation, support and integration. For more information on the SPRAR as well as on the services. Detailed information available at: <http://www.serviziocentrale.it> (Accessed November 2011).

²³⁴ If the SPRAR cannot immediately accommodate the child in its facilities, placement and care have to be provided by the local social services. In case the child's application is not confirmed or the international protection status is not granted, the matter comes within the competence of the Directorate-General and the child receives the same type of placement and care as separated non-asylum-seeking children.



panied Romanian children. These cases are reported to the 'Central Coordination Body' (OCR) at the Ministry of Interior and to local prefectures that have the duty to coordinate local actors, monitor the conditions of placement and act as a link between local actors and the OCR.²³⁵

The structures for the identification and referral of children to protection services are therefore highly fragmented according to the status of the child. There are separate referral mechanisms in place for unaccompanied asylum seeking children, unaccompanied children from outside the EU who are not seeking asylum, child migrants who are EU citizens, particularly Romanian nationals, and child victims of trafficking. The current disconnection between the reception system for asylum seekers and the official identification and referral of victims of trafficking, for instance, is considered a protection gap. The requirement to select a 'protection path' for children implies the risk that the services offered are guided primarily by general assumptions about the needs of children belonging to a certain group. According to international standards, the type of services offered should however primarily be guided by an individual case and needs assessment, and not by the child's status.²³⁶

As the referral is not arranged through a unified method, the quality of service provision for unaccompanied children in Italy is considered variable. Some municipalities may have to care for disproportionately high numbers of children and cover the related costs, which are higher for institutional care than for family-based care. The resources available within municipalities are however limited as is the financial support from the central government. Challenges have been reported in offering training and capacity building for local staff and monitoring the quality of the services provided.²³⁷

Key informants noted that there is a need to reform the standards and quality of referral and service provision from a child rights-based perspective and from a cost-efficiency perspective.²³⁸ Recognising the existing challenges, some municipalities are testing out innovative models of support and placement. The objective is to offer more flexible and tailor-made accommodation for children. These include, for instance, low-threshold drop-in centres, independent accommodation for adolescents in shared flats, supporting adolescents in finding employment, providing weekly pocket money and setting some money aside so that the children or young people have savings to take along upon leaving the placement. In one municipality, the implementation of an independent housing model reduced the costs significantly while the responsible staff reported that the children felt more confident and motivated. This model was only of limited duration and has been discontinued. It would be important to conduct a comprehensive evaluation of alternative approaches to placement of non-national children, to understand better the implications for the children concerned, including opportunities for reducing their risk of exploitation and trafficking, and the cost-effectiveness for the municipality.²³⁹

The services offered by the SPRAR, Central Service of the System of Protection for Asylum-Seekers

²³⁵ Italy, Ministry of Interior Directive of 20th January 2009 (prot. 246). Cittalia (2010), *Minori romeni in Italia: strategie di tutela. L'attuazione dell'accordo bilaterale per la protezione dei minori non accompagnati dopo l'ingresso della Romania in UE*, Cittalia, Rome. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²³⁶ Defence for Children International Italia (2012), *GATE: Guardians Against Trafficking and Exploitation*. National Report Italy. Key informant interview GOV, IT 09. Cited in: IMPACT National Report Italy: Chapter 4.4.3.

²³⁷ Rozzi, E. (2008), *The situation of EU and non-EU separated children in Italy*, E-Migrinter, No. 2, pp. 13-26, 2008. Giovannetti, M. (2009), *L'accoglienza incompiuta, Le politiche dei comuni italiani verso un sistema di protezione nazionale dei minori stranieri non accompagnati*, il Mulino, Bologna. European Migration Network (2009), *Unaccompanied Minors: Quantitative aspects and reception, return and integration policies, Analysis of the Italian case for a comparative study*, ed. by F. Pittau, A. Ricci, L. Ildiko Timsa, Rome. Candia, G., F. Carchedi, F. Giannotta, G. Tarzia (eds.) (2009), *Minori erranti, L'accoglienza e i percorsi di protezione*, Ediesse, Rome, 2009. Defence for Children International Italia (2011), *Closing a Protection Gap: Core standards for guardians of separated children in Europe*, Italian National Report, 2010-2011, Daphne III Project, Defence for Children International – Italy. Bethke, M., D. Bender (2010), *The Living Conditions of Refugees in Italy*, Förderverein PRO ASYL e.V., Frankfurt. Defence for Children International Italia (2012), *GATE: Guardians Against Trafficking and Exploitation*. National Report Italy. Key informant interview GOV, IT 09. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²³⁸ Key informant interviews GOV, IT 09; GOV, IT 0.1 Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²³⁹ Key informant interview ORG, IT 01. See also: Defence for Children International Italia (2012), *GATE: Guardians Against Trafficking and Exploitation*. National Report Italy. Cited in: IMPACT National Report Italy, Chapter 4.1.1.



and Refugees, are considered to be sensible and carefully analysing the individual situation of each child and to offer targeted support. The programme is however based on the voluntary participation of local authorities and operates through periodic calls for project proposals. Municipalities may decide to organise reception services in a different way, which is practiced particularly in the Southern regions of Italy and may result in different standards. The number of places offered by SPRAR is not sufficient to host all children. In light of the dearth of available places, the Italian Ministry of the Interior announced in September 2013 that the total number of places offered by SPRAR shall be increased from 3,000 to 16,000 over the following three years.²⁴⁰

As a consequence of the civil and political conflicts in North Africa, the Government of Italy declared in February 2011 a humanitarian emergency, which was upheld to the end of 2012.²⁴¹ It appointed a Commissioner for the 'North Africa Emergency', assigned to the Head of the Civil Protection Department of the Presidency of the Council of Ministers. The Commissioner was tasked to implement measures in response to the emergency and to appoint regional coordinators to facilitate the identification and enrolment of reception facilities within the Regions.²⁴² The extent of the 'emergency' has been subject to debate, especially considering the moderate numbers of asylum seekers registered in Italy in comparison to other EU countries and from the perspective of more consistent responses to higher numbers of migrants arriving throughout the EU.²⁴³ During the 'emergency' period, serious concerns about substandard reception conditions were expressed by EU representatives and NGOs and were reiterated also by the Committee on the Rights of the Child, concerning in particular the situations in Sicily and in Lampedusa.²⁴⁴

In this context, the General Director for Immigration and Integration Policies at the Ministry of Labour and Social Policies was entrusted in May 2011 with the implementation of placement and care measures for unaccompanied non-asylum-seeking children.²⁴⁵ As a result, between May 2011 and January 2013, a new procedure for the placement and care of non-asylum-seeking children was implemented under the management of the National Association of Italian Municipalities (ANCI). The procedure puts in place a multi-step process for the placement of children according to the availability of places. The priorities of placement were defined as follows: Children were to be placed in local child reception facilities if possible. If places were not available in these structures, children would be placed temporarily in one of the 24 'emergency' Structures for Temporary Placement until a place in a child reception facility became available. In cases of children who wanted to apply for asylum, a different procedure was to be followed and the competence for finding a suitable placement would be transferred to the SPRAR. In absence of available places through SPRAR, the Ministry of Labour and Social Policies would be responsible for finding a suitable placement. In case the child expressed his/her intention to apply for asylum at a later stage, and in case there was no place in the SPRAR, the decision on the placement was under the remit of the local authority where the child was hosted, upon information of the regional Civil Protection Department, which could decide to maintain the previous placement or to

²⁴⁰ Key informant interview GOV, IT 09. IT: ASGI - Associazione di Studi Giuridici sull'Immigrazione (2011), *Il diritto alla protezione: la protezione internazionale in Italia quale futuro? Studio sullo stato del sistema asilo in Italia e proposte per una sua evoluzione, FONDO EUROPEO PER I RIFUGIATI 2008-2013, Programma annuale 2009 - Azione 2.1.A.* Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²⁴¹ Ministry of Interior Circular no. 10908 of the 28th of December 2012. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²⁴² President of the Council of Ministers ordinance no. 3933/2011. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²⁴³ See Chapter 3. See also: Olivieri, M.S. (2011), *L'accoglienza "frantumata" sotto il peso dell'emergenza*, Lunaria (ed.), *Cronache di ordinario razzismo, Secondo libro bianco sul razzismo in Italia*, Edizioni dell'Asino, Roma, pp. 35-44. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²⁴⁴ United Nations Committee on the Rights of the Child (2011), *Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Italy, CRC/C/ITA/CO/3-4*. Report by the European Council on Refugees and Exiles (ECRE) Bulletin, 2 December 2011, available at <http://www.ecre.org> (accessed September 2013). European Migration Network (2009), *Unaccompanied Minors: Quantitative aspects and reception, return and integration policies, Analysis of the Italian case for a comparative study*, ed. by F. Pittau, A. Ricci, L. Ildiko Timsa, Rome. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²⁴⁵ President of the Council of Ministers Ordinance No. 3933/2011, Decree of the Commissioner for the North Africa Emergency Report No. 2436 of the 18th of May 2011. Associazione Nazionale Comuni Italiani (2012), *I minori stranieri non accompagnati in Italia, IV. Rapporto ANCI Cittalia*, Rome. Cited in: IMPACT National Report Italy, Chapter 4.1.1.



transfer the child to a more suitable reception facility.²⁴⁶

This complex division of tasks and responsibilities, the high number of placement structures involved and the absence of a unified coordination mechanism might pose obstacles for an adequate procedure. Decisions about the placement of a child might be taken primarily on the basis of the child's status and the availability of places rather than an individual case and needs assessment. Several NGOs reported during this period that unaccompanied children were often staying for extended periods of time in centres for immigrants or in temporary reception centres. The conditions in these centres were not always adequate for children and the staff had not been prepared or trained to handle cases of unaccompanied children. The children did not always have access to adequate information and services such as legal counselling, the appointment of a guardian, the asylum procedure for children, special safeguards for child victims of trafficking, and the development of an education and care programme.²⁴⁷

It was criticised that the new procedures had been developed without consulting the local authorities, service providers and NGOs and taking their experience and recommendations into account. The temporary procedures developed in response to the 'emergency' were operated without giving due attention to ensuring minimum standards of quality and monitoring. The resources used might have been invested more effectively if they had contributed to improving and integrating the existing procedures and structures, for instance by building on the structures operated by SPRAR.²⁴⁸

In Portugal, the Law on the Protection of Children and Youth at Risk is the central legal instrument for the protection of children at risk. It is applicable to all children in the country regardless of their status. The leading child protection agencies are the Commissions for the Protection of Children and Young People (CPCJ) and the courts.²⁴⁹ Unaccompanied asylum-seeking children are identified by the Immigration and Borders Service (SEF) and referred to the Portuguese Refugee Council (CPR). Since May 2012, the 'House for the World' provides a temporary reception centre for refugee and asylum-seeking children with a capacity for hosting up to 17 children. The number of places is however not considered sufficient to ensure that all children can be offered a placement.²⁵⁰

INTEGRATED AND SPECIALISED SERVICES

In some countries, unaccompanied children and child victims of trafficking can be placed in the mainstream child care institutions or in foster families. In Cyprus, the inclusion of all children under the national child protection services is considered an important achievement. The Children's Law does however not make any reference to asylum seeking children, accompanied or unaccompanied. Its implementation is not yet considered effective as specialised expertise, measures and procedures have not been defined. There is a risk that the egalitarian approach is interpreted to mean equal treatment

²⁴⁶ Save the Children Italia, Garante dell'Infanzia e dell'Adolescenza della Regione Lazio (2011), *Le condizioni di accoglienza nelle strutture emergenziali per minori stranieri non accompagnati nel Lazio*, Rome. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²⁴⁷ ASGI - Associazione di Studi Giuridici sull'Immigrazione (2011), *Il diritto alla protezione: la protezione internazionale in Italia quale futuro? Studio sullo stato del sistema asilo in Italia e proposte per una sua evoluzione*, FONDO EUROPEO PER I RIFUGIATI 2008-2013, Programma annuale 2009 - Azione 2.1.A. Save the Children (2011), *Spettatori e Vittime: i minori e la violenza assistita in ambito domestico*, Analisi dell'efficienza del sistema di protezione in Italia. Terre des Hommes (2012), *Guida Giuridica per operatori impegnati nell'accoglienza di minori stranieri non accompagnati*. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²⁴⁸ Key informant interviews GOV, IT 09; MUN, IT 03. Olivieri, M.S. (2011), *L'accoglienza "frantumata" sotto il peso dell'emergenza*, Lunaria (ed.), *Cronache di ordinario razzismo*, Secondo libro bianco sul razzismo in Italia, Edizioni dell'Asino, Roma, pp. 35-44. According to a recent draft resolution approved on the 2nd of October 2013 by the Migration Committee of the Parliamentary Assembly of the Council of Europe, "Italy has shown once again that it is ill-prepared for a new surge of mixed migration on its coasts, with little evidence of a system for receiving and processing migrants and asylum seekers that is "fit for purpose". The piece of news and the draft resolution are available at: <http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=4674&lang=2&cat=134> (Accessed October 2013). Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²⁴⁹ Law 147/99, Government Gazette, 1st Series-A No.204, 1 September 1999, Articles 2 and 34. Cited in: IMPACT National Report Portugal, Chapter 4. Protection.1.

²⁵⁰ Cited in: IMPACT National Report Portugal, Chapter 4. Protection.1.



when in fact some cases would require special supportive and protective measures and specialised expertise.²⁵¹ Due to the low number of child trafficking cases identified officially, also the Portuguese authorities have decided that special shelters for child victims of trafficking are not required. Unaccompanied children who are victims of trafficking are accommodated in the child care facilities that offer protection and care for children as part of the mainstream child protection system.²⁵² Any child who is a victim or at risk of trafficking or exploitation is considered a 'child at risk' and falls therefore under the procedures implemented under the national law on children and youth at risk.²⁵³

Whereas this approach is preferable from a perspective promoting inclusive policies and social integration, the individual situation and needs of each child need to be duly assessed and met with targeted services. When specific services are required such as interpretation and cultural mediation, support and counselling, these can be provided by the mainstream child protection services. A precondition is, however, that training and funding is made available to ensure these services are delivered effectively. Currently, this has not yet been achieved consistently throughout the four countries. In Cyprus, for instance, information on how child protection and social welfare staff are prepared to provide services that are targeted to each individual child was not available and it remains a matter of doubt how the diversity of the children and their different situations and needs are adequately being addressed.²⁵⁴

As regards unaccompanied children, the challenges of providing adequate reception conditions, accommodation and care are considered to be among the factors that prompt children to leave reception facilities and institutions. In Italy, 7,402 unaccompanied non-asylum-seeking children were identified in the first seven months of 2013. 1,452 of them (19,61%) left without notifying the authorities and their whereabouts remain unknown.²⁵⁵

From Greece, it is reported that children who are eventually placed in an accommodation facility, after having passed through the First Reception Centre or a detention centre (see also Chapter 5.e) leave often after very short time. According to research conducted by UNHCR, children stated that inadequate conditions in the centres, the fact that their needs were not addressed, and that appropriate solutions and perspectives were not available to them, were the main reasons for them to leave.²⁵⁶ In Portugal, concerns were expressed that the placement of child victims of trafficking and children at risk in open child care institutions might in some cases not adequately protect them from recruitment by traffickers who might induce them to leave the place.²⁵⁷

FOSTER CARE

Foster care for children is practiced in all four countries and by law family-based alternative care shall be favoured over institutional care, in line with international guidance on this matter. Foster care is considered a possible care model for the reception of unaccompanied children as it is not only more beneficial for the children but also more cost-effective. In Cyprus, the Commissioner for Children's Rights noted that it would

²⁵¹ Key informant interview GOV, CY01. Cited in: IMPACT National Report Cyprus, Chapter 4.4.1.

²⁵² GRETA (2013), Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Portugal, p. 32. Cited in: IMPACT National Report Portugal, Chapter 4. Protection.1.

²⁵³ Cited in: IMPACT National Report Portugal, Chapter 5.

²⁵⁴ Cited in: IMPACT National Report Cyprus, Chapter 4.1.1.

²⁵⁵ Directorate - General on Immigration and Integration Policies of the Ministry of Labour and Social Policies, National Report on Unaccompanied Minors, available at: http://www.lavoro.gov.it/mdl/AreaSociale/Immigrazione/minori_stranieri/Documents/Report%20MSNA%2031-07-2013.pdf (accessed September 2013). Cited in: IMPACT National Report Italy: Chapter 4.4.4.

²⁵⁶ Human Rights Watch (2012), Periodic Review of Greece, p. 8. Key informant interview GOV, GR07. Cited in: IMPACT National Report Greece, Chapter 4.1.1.

²⁵⁷ Key informant interview ORG, PT11. Cited in: IMPACT National Report Portugal, Chapter 4. Survival.1.



be important to provide more systematic support to foster families in order to step up this form of alternative care, including for non-national children. Quality needs to be ensured by providing social services to support the children and the foster families, targeted to their specific needs.²⁵⁸

Foster care is provided for by law as a form of alternative care also in Greece.²⁵⁹ In 2012, the Greek Ombudsman reported however that fostering remained limited and was not consistently supported by the regions; the required budget had not been allocated and there was no system for the selection, training, monitoring and support of foster parents.²⁶⁰

In Italy, the concept of 'fostering' of unaccompanied children is used in a very broad sense as children may be fostered by family members, a foster family or a single person, a child reception facility, or the local authority. The term fostering is therefore not necessarily associated to family-based care. The law prioritises however the fostering by a family or single person for any child in need of alternative care.²⁶¹

The practice of referring a child to foster care is used in a variable way in light of the fragmented competences for different groups of children. The monitoring of the foster arrangements falls under the responsibility of the local social services that have the duty to report to and to keep informed the Tutelary Judge or the Juvenile Judge, depending on the type of fostering. Fostering is initially provided for a maximum of 24 months and can be prolonged by the Juvenile Judge.²⁶² In some local contexts fostering measures for unaccompanied children are adopted according to the law on fostering for children who are considered to have 'relational or behavioural problems'. This type of fostering can be prolonged up to 21 years of age.²⁶³

A key informant in Italy noted that children who are not living in a family environment, with their biological families or foster families, may be disadvantaged when they are in conflict with the law. The juvenile justice system foresees alternatives to detention for children in conflict with the law, such as house detention in the family home. This is however not an option for children who are living in a reception facility or other institutions.²⁶⁴ On the other side, family-based foster care may have implications for the issuing of a residence permit. Under the Immigration Act, unaccompanied children who are staying in a foster family may have higher chances of having their permit of stay converted into a residence permit for study, search of work, work or health reasons when they are turning 18 years old.²⁶⁵

Although fostering for unaccompanied children is regulated by law and although the placement of unaccompanied children in reception facilities is considered a measure of last resort, the latter constitutes the prevailing practice in Italy. The percentage of children placed in family foster care remains

²⁵⁸ The Commissioner for the Protection of Children's Rights (2011), Report of the Commissioner for Children's Rights in Cyprus to the UN Committee on the Rights of the Child' Supplementary Report to the 3rd and 4th Periodic Report of Cyprus, p. 33. Cited in: IMPACT National Report Cyprus, Chapter 4.1.1.

²⁵⁹ Greek Civil Code Articles 1655-1665 .Law 2082/1992 on the Reorganisation of Social Welfare and Introduction of New Methods of Social Welfare, Official Gazette of the Hellenic Republic, Vol. A' No. 158.

²⁶⁰ The Greek Ombudsman (2012), Parallel Report to the UN Committee on the Rights of the Child, Findings and recommendations of the Independent Authority "The Greek Ombudsman" on the implementation of Children's Rights in Greece, July 2003 – December 2011, p. 10. The Greek Ombudsman (2012), Organisation and Operation of the Foster Care Institution, (in Greek), September 2012, p. 5. The Greek Ombudsman (2005), 2005 Annual Report, Summary, National Printing House, p. 46. United Nations Committee on the Rights of the Child (2011), Consideration of reports submitted by States parties under article 44 of the Convention, Second and third periodic reports of States parties due in 2000, Greece, CRC/C/GRC/2-3, 11 April 2011, p. 59. Cited in: IMPACT National Report Greece, Chapter 4.1.1.

²⁶¹ Law n°. 184/1983 as amended by Law n°. 149/2001 on adoption and foster care. Royal Legislative Decree no. 1404/1934 (so-called "Child Law"), Articles 25 and 29. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²⁶² Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²⁶³ Law n°. 184/1983 as amended by Law n°. 149/2001 on adoption and foster care. Royal Legislative Decree no. 1404/1934 (so-called "Child Law"), Articles 25 and 29. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²⁶⁴ Key informant interview GOV, IT 06. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²⁶⁵ Italy, Immigration Act and Ministry of Interior's Directive No. 17272/7 of 28th of March 2008, Article 32, paras. 1 and 1bis. Cited in: IMPACT National Report Italy, Chapter 4.3.1.



low with 7,6% in 2009 and 8,7% in 2010.²⁶⁶

The prevention of institutionalisation of children – national or non-national – was the focus of the European programme “P.I.P.P.I. – Programme of Intervention for the Prevention of Institutionalization” implemented in Italy by the Ministry of Labour and Social Policies in collaboration with the Laboratory of Research and Intervention on Family Education of the University of Padua, the social services of 10 Italian municipalities, schools, third sector organisations and health care agencies. The objective was to create an effective coordination mechanism for child care, to strengthen the social services’ support to families, to reduce the number of children placed out of their families, and to make the placement and alternative care for children more cost-effective. Initially implemented for the period from 2010 to 2012, the project is being continued in 2013.²⁶⁷

In Portugal, the regulation of foster care issued in 2008 introduced a new framework for foster families and follow-up provided by social services. With the ‘Civil Sponsorship’, a new legal figure was created in 2009, which foresees the placement of a child or young person in a family environment, or with a person with parental responsibility to establish close affective ties for their well-being and development.²⁶⁸ The law provides that individual adults or families can receive a foster child. The persons are entrusted with the care of the child and take over the role and duties of parents. The Sponsorship is defined by law as a legal relationship, usually of a permanent character, with the aim to establish affective bonds and supporting the well-being and development of the child. This new institution does not, however, create a link similar to the affiliation, nor does it aim at cutting the ties with the biological family.²⁶⁹

LIFE PROJECTS FOR CHILDREN IN CARE

The law regulating alternative care for children in Portugal provides that life projects have to be developed, documented and assessed for children in care. The law requires the Government to report annually on the evolution of these life projects of children and young people in care, including children living in foster families and institutions. A life project is defined as “the plan ... aiming at projecting to the future a given lifestyle which is considered desirable for the child or young person”. The life project includes the orientation and guidance for the child to achieve the goals. A life project must consider schooling and training needs, as well as affective and relational needs of the child. The development and implementation of life projects is at the core of the tasks of child protection and care staff who follow-up on cases of children in care.²⁷⁰

The annual reporting by the government gives high visibility to the care planning for children and lifts this issue up to a matter of public national interest. A study conducted in 2012 revealed that the development and realisation of life projects was however not yet consistently achieved for all children in care.²⁷¹

Life projects are planning and management tools for the care of children giving due consideration to the

²⁶⁶ Associazione Nazionale Comuni Italiani (2012), I minori stranieri non accompagnati in Italia, IV. Rapporto ANCI Cittalia, Rome. Key informant interview MUN, IT 02. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²⁶⁷ Key informant interview MUN, IT 02. The Final Report of the Project is available at: http://www.minori.it/sites/default/files/report_p.i.p.p.i._2011-2012_quaderni_sociali_24_0.pdf (accessed September 2013). Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²⁶⁸ Law 103/2009, Government Gazette, 1st Series, No. 177, 11 September 2009. Cited in: IMPACT National Report Portugal, Chapter 4.Protection.1.

²⁶⁹ Cited in: IMPACT National Report Portugal, Chapter 4.Protection.1.

²⁷⁰ Law 31/2003, Government Gazette, 1st Series-A, No.193, 22 August 2003, Article 10 of Chapter V. Instituto de Desenvolvimento Social-IDS (2000), Lares de Crianças e Jovens – Caracterização e Dinâmicas de Funcionamento, Coleção Estudos, p.74. Cited in: IMPACT National Report Portugal, Chapter 4.Protection.1.

²⁷¹ Instituto de Segurança Social (2013), CASA 2012 – Caracterização Anual da Situação de Acolhimento das Crianças e Jovens, p. 44. Instituto de Segurança Social (2013), CASA 2012 – Caracterização Anual da Situação de Acolhimento das Crianças e Jovens. Cited in: IMPACT National Report Portugal, Chapter 4.Protection.1.



views and best interests of a boy or a girl in care. They provide a longer term institutionalised framework to understand the aspirations of the child and to monitor the progress made toward achieving them. The Council of Europe has recommended life projects for children as an essential tool for planning the care for unaccompanied children and has issued relevant guidelines. A life project is described as follows: "Life projects aim to develop the capacities of minors allowing them to acquire and strengthen the skills necessary to become independent, responsible and active in society. In order to achieve this, life projects, fully in accord with the best interests of the child, as defined in the Convention on the Rights of the Child, pursue objectives relating to the social integration of minors, personal development, cultural development, housing, health, education and vocational training, and employment. ... They define the minor's future prospects, promote the best interests of the child without discrimination and provide a long-term response to the needs of both the minor and the parties concerned."²⁷²

The Council of Europe Recommendation has a broad and inclusive scope in that it refers not only to unaccompanied or separated asylum seeking children but to all children under the age of 18 who are migrants outside of their country of origin, irrespective of their status and their reasons for migrating. The Recommendation refers therefore also to undocumented children and child victims of trafficking.²⁷³

PREVENTION MEASURES

From some of the countries, there are indications to suggest that national child protection systems are better equipped to respond to than to prevent cases of violence, exploitation and abuse. Studies and key informants suggested that primary prevention measures are being neglected and there is a limited practice and experience with early intervention measures.²⁷⁴ In Cyprus, it was also noted that there are no special programmes for the prevention of child trafficking.²⁷⁵ In Portugal, key informants noted that there was a need for more information and investment into the local level child protection services.²⁷⁶ In Italy, there are concerns that the limited budget available for child protection services is raising the threshold of interventions; there is increasingly a focus on responding to cases of high distress rather than investing more consistently in preventive measures.²⁷⁷

“I think that this law is focusing more on remediation than on prevention. Therefore it is important that the duties of first line entities are better defined. And it is essential that the first line knows the law ... and that there are human resources specialized in the field of prevention and intervention in the field of children and young people at risk These are two important things and one is that if we are thinking about remediation we will hardly be addressing the essence of the matter.” (Portugal)²⁷⁸

²⁷² Council of Europe, Committee of Ministers (2007), Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors, Adopted by the Committee of Ministers on 12 July 2007 at the 1002nd meeting of the Ministers' Deputies, 2007, available at: <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1164769&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>, (Accessed November 2013), Appendix, par. 1-2.

²⁷³ Council of Europe, Committee of Ministers (2007), Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors, Adopted by the Committee of Ministers on 12 July 2007 at the 1002nd meeting of the Ministers' Deputies, 2007, Appendix, par. 4-6. See also: United Nations Children's Fund Innocenti Research Centre (2012), Child Trafficking in the Nordic Countries, Rethinking strategies and approaches, A Technical Report, Florence, pp. 65-66.

²⁷⁴ Cyprus: Cited in: IMPACT National Report Cyprus, Chapter 4.4.1. Portugal: Varella, Nazaré (2009), Maus tratos e protecção social de menores: operacionalização e eficácia das medidas de protecção, Dissertação de Mestrado em Sociologia, Faculdade de Letras, Universidade do Porto, p.102. Key informant interview MUN, PT08. Cited in: IMPACT National Report Portugal, Chapter 4.Participation.1.

²⁷⁵ Key informant interview ORG, CY01. Cited in: IMPACT National Report Cyprus, Chapter 4.4.3.

²⁷⁶ Key informant interview MUN, PT08. Cited in: IMPACT National Report Portugal, Chapter 4.Protection.1.

²⁷⁷ See Chapter 3.a.

²⁷⁸ Key informant interview MUN, PT08. Cited in: IMPACT National Report Portugal, Chapter 4.Protection.1.



“If I were to summarize the situation, I would say that in the 70s and 80s there was a strong attention to prevention, including also dissemination of information, active involvement of society on children’s needs, etc., etc. Over the years, policies and services have been increasingly reduced, thus reducing the possibilities of intervention. This reduction mainly affected ... the possibility of implementing prevention actions and measures, with an increasing focus on ‘care and recovery’ measures. To briefly sum up, [we moved] from prevention to a damage reduction strategy.” (Italy)²⁷⁹

STANDARD PROCEDURES

Standardised procedures, tools and guidelines are key to make the referral and service delivery more effective and appropriate. They are essential to ensure that national laws and policies are applied locally according to common quality standards and to increase the compliance of the local practice with the national laws.²⁸⁰ In the absence of standardised procedures and clear legal and practical guidelines for child protection services, professionals and officials are operating sometimes in a legal limbo or might not have the necessary confidence in exercising their mandates. This might result in a margin of discretion on the side of the professional or official in charge, uncertainty about how to handle cases, and resulting delays in the decision making processes. All this is potentially detrimental to the interests of the child. In cases of legal and procedural uncertainty, the professionals and officials may be reluctant to take decisions when they risk that these be subsequently held against them as has been reported from individual cases in Greece.²⁸¹

“There is also the issue of interpretation of the law. ... many times there are specific points of the law where the Service/Agency is given some discretion to interpret the law. However, we have realised that at many times the law is interpreted in a negative way.”(Cyprus)²⁸²

In Greece, key informants noted that standard operating procedures were missing for the child protection context in general and for the referral of children to accommodation and reception facilities specifically. There is a lack of unified professional guidance on how to manage a child protection case, including the individual case and needs assessment, the assessment and formal determination of the best interests of a child, hearing the views of the child, documenting the case and ensuring periodic review. Some very practical matters concerning the alternative care of children remain unregulated such as the food to be provided, the quality of interaction and relation between social workers and the children, the size, type and equipment of child care facilities. As a result, these matters are determined by the organisations providing services, which leads to heterogeneous standards.²⁸³

In order to promote the standardisation of procedures and practices for the accommodation, care and protection of unaccompanied children in Italy, the System for the Protection of Asylum-Seekers and Refugees and the National Programme for the Protection of Unaccompanied Foreign Minors were established in 2002 and 2007. Whereas the first caters to asylum seekers and refugees, the latter was set up to promote the coordination and standardisation of procedures, services and support provided by local municipalities for

²⁷⁹ Key informant interview MUN, IT 03. Cited in: IMPACT National Report Italy, Chapter 4.

²⁸⁰ Key informant interview ORG, GR05. Cited in: IMPACT National Report Greece, Chapter 4.4.1.

²⁸¹ Key informant interview MUN, GR01. Cited in: IMPACT National Report Greece, Chapter 4.4.1.

²⁸² Key informant interview GOV, CY01. Cited in: IMPACT National Report Cyprus, Chapter 2.

²⁸³ Key informant interview ORG, GR05. Cited in: IMPACT National Report Greece, Chapter 4.1.1.



unaccompanied non-asylum-seeking children. Operational guidelines for the identification of children, the appointment of a guardian, placement, education, health care, interpretation and cultural mediation were developed. The Programme was however limited in time and was discontinued by end 2011 as the required funds had not been allocated.²⁸⁴ This is yet another example of a project-based initiative in an area that is essential for guaranteeing that the national child protection and reception system safeguards the rights of unaccompanied migrant children. Essential functions like these should not be regulated by a project but by a sustained state initiative, in collaboration with private partners, if and as appropriate, and subject to adequate funding, monitoring and periodic review.

The need for standardised procedures, guidelines and tools has been expressed also with regard to the assessment and determination of the best interests of a child and the hearing of the child in decision taking processes, as is discussed in the following sections.

THE BEST INTERESTS OF THE CHILD

The general principle of the ‘best interests of the child’ is a central and all-embracing principle under the Convention on the Rights of the Child. CRC Article 3 stipulates that “in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”. The principle relates to all the other rights afforded under the Convention and has a key role for making law, policy and practice more appropriate and meaningful.²⁸⁵

Throughout the four countries, the principle of the best interests of the child is reflected in various sectoral laws, such as laws on children, child protection and care, family law, health and education, social protection, laws on immigration and asylum, and laws on trafficking in human beings and victim protection, as well as civil and criminal procedural laws.²⁸⁶ It is enshrined in Article 3 of the Convention, which forms part of the national law of all four countries. The legal provisions often remain limited to introducing the wording of the best interests of the child. There are only individual examples in law and policy that offer a clarification of what the principle all entails. Little guidance is available from laws and policies as to how it shall be applied in practice, individually with regard to specific cases of boys and girls who are in contact with the authorities, as well as collectively as a guiding principle for policy planning and implementation, and budget allocation.

In Greece, laws on immigration and permits of stay provide that the best interests of the child shall be taken into consideration in decisions concerning the issuing, duration and renewal of residence permits. For child victims of trafficking, the law provides an option to extend the duration of the reflection period by one month when this is considered to be in the best interests of the child.²⁸⁷ The

²⁸⁴ Italy, Law 189/2002 Article 32, paras. 1-sexies and septies. Associazione Nazionale Comuni Italiani (2009), *Minori stranieri non accompagnati*, Terzo Rapporto ANCI 2008, edited by M. Giovannetti, Rome. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

²⁸⁵ United Nations Children’s Fund (2002), *Implementation Handbook for the Convention on the Rights of the Child, Fully Revised Edition*, prepared for UNICEF by Rachel Hodgkin and Peter Newell, New York and Geneva, p. 42.

²⁸⁶ See for instance: Cyprus: *Combating Trafficking and Exploitation of Human Beings and Protection of Victims Law of 2007*, last amended 2012, the *Refugee Law of 2000*, last amended 2013, the *Children Law*, and the *Law on Violence in the Family (Prevention and Protection of Victims) Law of 2000 and 2004*. Cited in: IMPACT National Report Cyprus, Chapter 3. Greece: *Civil Code Article 1511*. Cited in: IMPACT National Report Greece, Chapter 3. Italy: *Law n°. 149 of the 28th of March 2001, reforming Law n°. 184 of the 4th May 1983, Articles 4, 10, 14, 19, etc.* Cited in: IMPACT National Report Italy, Chapter 3. Portugal: *Civil Code, Article 1879, Number 1 and Article 1906. Decree-Law 47344, Government Gazette, 1st Series, No.274, 25 November 1966, last amended by Law 23/2013 of 5 March*. Cited in: IMPACT National Report Portugal, Chapter 3. *Adoption Legal Regime established by Law 31/2003, of 22 August, Government Gazette, 1st Series-A, No.193, 22 August 2003*. Cited in: IMPACT National Report Portugal, Chapter 3.

²⁸⁷ *Law 3386/2005 on Entry, residence and integration of third-country nationals in the Greek territory, Official Gazette of the Hellenic Republic Vol A’, No.212*, Articles 48, 56 and 57, as amended by *Laws 3448/2006 (Official Gazette of the Hellenic Republic Vol A’ No.57)*, *3536/2007 (Official Gazette of the Hellenic Republic Vol A’ No.42)*, *3613/2007 (Official Gazette of the Hellenic Republic Vol A’ No.263)*, *3731/2008 (Official Gazette of the Hellenic Republic Vol A’ No.263)*, *3772/2009 (Official Gazette of the Hellenic Republic Vol A’ No.112)* and *3801/2009 (Official Gazette of the Hellenic Republic Vol A’ No.163)*. Cited in: IMPACT National Report Greece, Chapter 3.



best interests of the child need to be taken into consideration in measures under the asylum law, including reception and placement, and in cases of return or removal of unaccompanied children. The child's best interest should be a primary consideration in cases of detention of children and families, and when children are detained prior to removal from Greece.²⁸⁸ The latter example illustrates the extent to which the principle is used as a legalistic phrase that might be void of meaning. In light of international standards, the immigration detention of unaccompanied children prior to removal can be considered contrary to the best interests of the child.²⁸⁹

In Italy, the Constitutional Court has declared the best interests of the child a constitutional principle although it is not reflected in the Constitution.²⁹⁰ The principle has been introduced into laws on child care and protection, including with regard to adoption and foster care. The interests of the child are understood in relation to the child's right to balanced growth and education and to receive affection and family care.²⁹¹ The principle is considered a foundation of the policies and services in the area of social welfare and child protection.²⁹²

The Italian Immigration Act refers to CRC Article 3.1 specifically with regard to the right to family unity. It provides that "in all administrative and judicial procedures aimed at fulfilling the right to the unity of the family and concerning children, the principle of the best interest of the children should be taken in consideration with priority".²⁹³ The asylum law provides that family tracing for unaccompanied children be conducted in respect of the best interests of the child, ensuring the confidentiality for the asylum seeking child.²⁹⁴ In the context of removal of EU citizens from Italy, the law provides that unaccompanied children from EU Member States may be removed only for reasons of public security, except for cases when their repatriation corresponds to their best interests.²⁹⁵

In Portugal, the best interests of the child are addressed in the Law on Protection of Children and Youth at Risk.²⁹⁶ The law provides that the state and the community have to organise themselves in a way to guarantee that action models are capable of satisfying the needs of the individual development of every child and young person.²⁹⁷ In 2012, a working group was set up to lay the foundations for

288 Law 3907/2011, On the establishment of an Asylum Service and a First Reception Service, transposition into Greek legislation of the provisions of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third-country nationals" and other provisions, Articles 20, 25, 32, Official Gazette of the Hellenic Republic Vol A', No. 7. Cited in: IMPACT National Report Greece, Chapter 3.

289 The Committee on the Rights of the Child considers the immigration detention of unaccompanied or separated children to fall under the scope of CRC Article 37(b). It commented that "... unaccompanied or separated children should not, as a general rule, be detained. Detention cannot be justified solely on the basis of the child being unaccompanied or separated, or on their migratory or residence status, or lack thereof." See: United Nations Committee on the Rights of the Child (2005), General Comment No.6 (2005): Treatment of unaccompanied and separated children outside their country of origin, CRC/GC/2005/6, 1 September 2005, par. 61. The Human Rights Committee stated in its General Comment No. 8 that administrative detention for immigration purposes falls under the scope of "deprivation of liberty" in relation to Article 9 CCPR. See: United Nations Human Rights Committee (1982), General Comment No. 8: Right to liberty and security of persons (Article 9), Sixteenth Session, 30/06/1982, CCPR General Comment No. 8, available at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/f4253f9572cd4700c12563ed00483bec?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/f4253f9572cd4700c12563ed00483bec?Opendocument) (accessed December 2013).

290 Constitutional Court of Italy, Decisions No. 341 of 20th July 1990 and No. 303 of 24th July 1996, in reference to Articles 2 and 31 of the Constitution. See: United Nations Committee on the Rights of the Child (2002), Consideration of reports submitted by States parties under article 44 of the Convention, Periodic reports of States parties due in 1998, Italy, CRC/C/70/Add.13, par. 104. Cited in: IMPACT National Report Italy, Chapter 3.

291 United Nations Committee on the Rights of the Child (2009), Consideration of reports submitted by States parties under article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Italy, CRC/C/ITA/3-4, par. 137. Italy, Law N° 149 of the 28th of March 2001, reforming Law N° 184 of the 4th May 1983, Articles 4, 10, 14, 19. Cited in: IMPACT National Report Italy, Chapter 3.

292 United Nations Committee on the Rights of the Child (2009), Consideration of reports submitted by States parties under article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Italy, CRC/C/ITA/3-4, par. 142,143-144. Cited in: IMPACT National Report Italy, Chapter 3.

293 Italy: Immigration Act, Article 28. Cited in: IMPACT National Report Italy, Chapter 3.

294 Legislative Decree no. 140 of 30th of May 2005 regarding the implementation of Directive 2003/9/EC, which establishes minimum rules in EU member States, Article 8. United Nations Committee on the Rights of the Child (2009), Consideration of reports submitted by States parties under article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Italy, CRC/C/ITA/3-4, par. 138. Cited in: IMPACT National Report Italy, Chapter 3.

295 Italy, Legislative Decree No. 30/2007, Article 20, par. 5. Cited in: IMPACT National Report Italy, Chapter 3.

296 Law 147/99, Government Gazette, 1st Series-A, No.204, 1 September 1999, Article 4(a).

297 This is the formulation presented in the law that defines children or youngster as the person aged under 18 or the person aged under 21 requesting the continuation of the intervention process before turning 18. Cited in: IMPACT National Report Portugal, Chapter 3.



a Child Agenda. The working group was mandated to evaluate the operational, functional and legal mechanisms aiming to guarantee the best interests of the child and to develop recommendations on how to remove obstacles to the child's integral development and wellbeing.²⁹⁸ The scope of its work was primarily focused on family matters and alternative care for children, with a view to reducing institutional care and promoting the family as a core unit of protection for children.²⁹⁹ These important provisions on the best interests of the child relate to policy making and implementation in relation to the protection and development of children. They remind the public administration of the imperative to operate in accordance with the best interests' principle.

The Portuguese Asylum Law establishes that measures for its application must take the child's best interests into consideration. The wording of the law suggests that it is understood primarily in relation to the child's placement, place of living and family relations. In applying the best interests of a child, the law provides that the placement with the parents or with an adult relative are to be considered a priority. Where these options are not available, the child would be placed in a foster family, a specialised child care centre, or in other places with appropriate conditions. In placement, siblings shall not be separated and the life stability is considered a priority, with changes of location of residence limited to the minimum.³⁰⁰

The principle of the best interests of the child has also been introduced into the Portuguese Immigration Law, specifically with regard to children who have been exposed to trafficking or undocumented migration.³⁰¹ The law establishes that the child's best interests must be taken into consideration for provisions on residence permits for victims of human trafficking or victims of actions to facilitate undocumented migration. The reflection period allowing the victim to recover and escape from the influence of the perpetrators of human trafficking or actions to facilitate undocumented migration may be extended if that is considered to be in the best interests of the child.³⁰²

Although the principle has been reflected in national laws and policies – to varying degrees in the four countries – there is little information and reporting on the experience made with it in practice. In Greece, there are concerns that the best interests of the child are not taken into consideration in numerous occasions, particularly concerning unaccompanied children.³⁰³ It was noted in Italy that the best interests of the child may be overridden by other interests, as for instance the interests of adults involved in a case, or organisational and financial constraints.³⁰⁴

According to the assessment of the Committee on the Rights of the Child, the countries have not yet succeeded to fully apply the principle in practice. The Committee noted particularly with regard to Cyprus and Italy, that the principle has not yet been mainstreamed into all relevant laws, policies, programmes and budgets, that it is not being applied consistently in judicial and administrative decisions, and that there is a general lack of guidance, standards and procedures on how to apply and respect

²⁹⁸ Order 6306/2012 of 14 May, Dispatch 6306/2012, Government Gazette, 2nd Series, No.93, 14 May 2012. Cited in: IMPACT National Report Portugal, Chapter 3.

²⁹⁹ Resolution of the Portuguese Council of Ministers 37/2013, Government Gazette, 1st Series, No.111, 11 June 2013. Cited in: IMPACT National Report Portugal, Chapter 3.

³⁰⁰ Law 27/2008 (Asylum Law), Government Gazette, 1st Series, No. 124, 30 June 2008, Article 78. Cited in: IMPACT National Report Portugal, Chapter 3.

³⁰¹ Law 29/2012 (Immigration Law), Government Gazette, 1st Series, No. 154, 9 August 2012, Number 1 of Article 114. Cited in: IMPACT National Report Portugal, Chapter 3.

³⁰² Law 29/2012 (Immigration Law), Government Gazette, 1st Series, No. 154, 9 August 2012, Number 1 and 2 of Article 114, Articles 109-112. Cited in: IMPACT National Report Portugal, Chapter 3.

³⁰³ UNHCR, France Terre d'Asile, Save the Children and PRAKSIS (2012), Protecting Children on the Move, Addressing protection needs through reception, counselling and referral and enhancing cooperation in Greece, Italy and France, p. 45. The Greek Ombudsman (2012), Parallel Report to the UN Committee on the Rights of the Child, Findings and recommendations of the Independent Authority "The Greek Ombudsman" on the implementation of Children's Rights in Greece, July 2003 – December 2011, p. 3. Human Rights Watch (2008), Left to Survive, Systematic Failure to Protect Unaccompanied Migrant Children in Greece, pp. 104-106. Cited in: IMPACT National Report Greece, Chapter 3.

³⁰⁴ United Nations Committee on the Rights of the Child (2002), Consideration of reports submitted by States parties under article 44 of the Convention, Periodic reports of States parties due in 1998, Italy, CRC/C/70/Add.13, par. 106. Cited in: IMPACT National Report Italy, Chapter 3.



the principle in practice.³⁰⁵ The Committee recommended to develop and disseminate relevant methods and formal procedures for determining the best interests of the child and guidance for assessing the best interests of a child in every area.³⁰⁶

THE RIGHT OF THE CHILD TO BE HEARD

Listening to children, hearing their views and recommendations, understanding their aspirations and concerns and taking them into account for decision making processes is key for policy and practice to become more appropriate and effective. It is also a human rights imperative under CRC Article 12 and a prerequisite for achieving compliance with international standards. Hearing the views of the child and taking them into account is an integral part of any procedure for assessing and determining the best interests of the child. The right to be heard of non-national and asylum seeking children depends significantly on effective communication and interpretation as well as the trust between the child and the authorities.

The right to freedom of speech and expression is enshrined in the national Constitutions of the four countries studied by IMPACT.³⁰⁷ Provisions on the right of the child to be heard have been introduced into national laws, especially in civil laws concerning family matters, child protection and care, adoption and school education, immigration and criminal procedures law concerning the hearing of child victims and witnesses of crime. The right to be heard is regulated with regard to legal and administrative procedures, under civil and criminal law, with special safeguards concerning the role of a child in court proceedings, as victims or witnesses.³⁰⁸ In many contexts, the laws do not provide for a specific age limit as of which children are to be heard, but leave a margin of discretion according to the age and maturity of the child.³⁰⁹

305 United Nations Committee on the Rights of the Child (2012c), Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, Concluding Observations: Cyprus, CRC/C/CYP/CO/3-4, pp. 5, 17. Cited in: IMPACT National Report Cyprus, Chapter 3.

306 Cyprus: United Nations Committee on the Rights of the Child (2012c), Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, Concluding Observations: Cyprus, CRC/C/CYP/CO/3-4, p. 5. Cited in: IMPACT National Report Cyprus, Chapter 3. United Nations Committee on the Rights of the Child (2002), Consideration of reports submitted by States parties under article 44 of the Convention, Periodic reports of States parties due in 1998, Italy, CRC/C/70/Add.13, par. 106. United Nations Committee on the Rights of the Child (2003), Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Italy, CRC/C/15/Add.198, par. 23, 24. Cited in: IMPACT National Report Italy, Chapter 3.

307 Cyprus: Constitution of the Republic of Cyprus, Article 19, paragraph 1 and 2, p.10; Cited in: IMPACT National Report Cyprus, Chapter 3. Greece: Greek Constitution, Article 14, Cited in: IMPACT National Report Greece, Chapter 3. Italy: United Nations Committee on the Rights of the Child (2002), Consideration of reports submitted by States parties under article 44 of the Convention, Periodic reports of States parties due in 1998, Italy, CRC/C/70/Add.13, par. 108. Cited in: IMPACT National Report Italy, Chapter 3. Portugal: Portuguese Constitution (Constitutional Law no.1/2005, VII Constitutional revision), Government Gazette, 1st Series-A, No.155, 12 August 2005, Article 37. Cited in: IMPACT National Report Portugal, Chapter 3.

308 Cyprus: Parents and Children Relations Law, Adoption Law and the School Regulations, draft Law for the Welfare, Care and Protection of Children, United Nations Committee on the Rights of the Child (2011), Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, Combined third and fourth periodic reports of States parties due in 2008, Republic of Cyprus, CRC/C/CYP/3-4, pp. 29-30, Representing Children Worldwide (RCW) (2005), How Children's Voices are Heard in Child Protective Proceedings, <http://www.law.yale.edu/rcw/rcw/jurisdictions/asw/cyprus/frontpage.htm> (accessed April 2013). Cited in: IMPACT National Report Cyprus, Chapter 3. Greece: Law 3500/2006 on Combating Domestic Violence, Official Gazette of the Hellenic Republic, Vol A' No 232, Article 19; Articles 1511 and 1513 of the Civil Code and Article 681C, par. 2, of the Civil Procedural Code. Law 3907/2011 on the establishment of an Asylum Service and a First Reception Service, Official Gazette of the Hellenic Republic Vol A' No 7, transposition into Greek legislation of the provisions of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third-country nationals" and other provisions. Law 3386/2005 on Entry, residence and integration of third-country nationals in the Greek territory, Official Gazette of the Hellenic Republic Vol A', No.212), as amended by Laws 3448/2006 (Official Gazette of the Hellenic Republic Vol A' No.57), 3536/2007 (Official Gazette of the Hellenic Republic Vol A' No.42), 3613/2007 (Official Gazette of the Hellenic Republic Vol A' No.263), 3731/2008 (Official Gazette of the Hellenic Republic Vol A' No.263), 3772/2009 (Official Gazette of the Hellenic Republic Vol A' No.112) and 3801/2009 (Official Gazette of the Hellenic Republic Vol A' No.163). Cited in: IMPACT National Report Greece, Chapter 3. Cited in: IMPACT National Report Greece, Chapter 3. Italy: Article 609 - decies of the Criminal Code. Articles 392, 398 and 114, para. 6, Code of Criminal Procedure. See also: Decree of the President of the Republic of 29th May 1998. Article 7, DPCM No. 535/1999. Cited in: IMPACT National Report Italy, Chapter 3. Cited in: IMPACT National Report Italy, Chapter 3. Portugal: Article 1901 of the Civil Code, as amended by Law 61/2008; Article 147(a) of the Child Support Law; Articles 4, 10, 84 and 94 of Law 147/99; Civil Sponsoring Law Articles 10 and 11 of Act No. 201/2009 of 11 September. Preamble (indent 15) and Articles 45, 77, 104, 107, 137 of the Law on Educational Guardianship (Law 166/99, Government Gazette, 1st Series-A, No.215, 14 September 1999). Article 4 i) of Law 147/99, Government Gazette, 1st Series-A, No.204, 1 September 1999. Cited in: IMPACT National Report Portugal, Chapter 3.

309 Cyprus: Draft Law for the Welfare, Care and Protection of Children, United Nations Committee on the Rights of the Child (2011), Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, Combined third and fourth periodic reports of States parties due in 2008, Republic of Cyprus, CRC/C/CYP/3-4, pp. 29-30. Cited in: IMPACT National Report Cyprus, Chapter 3. Greece: Articles 1511 and 1513 of the Civil Code and Article 681C, par. 2, of the Civil Procedural Code. Cited in: IMPACT National Report Greece, Chapter 3.



In Portugal measures taken by child protection services under the Law on the Protection of Children and Youth at Risk are dependent on the non-opposition of the child as of the age of 12 years old. The opposition of a younger child shall be considered relevant and taken into account according to the maturity of the child and his or her capability to understand the meaning of the intervention. The child has a right to be informed and heard about the decision taken by the Commission for the Protection of Children and Youth and the Commissioner is obliged to inform the child of his or her rights and follow-up procedures.³¹⁰

In Italy, the Constitutional Court declared CRC Article 12 as a self-executing provision.³¹¹ The application of the principle in practice is however not as straightforward as the status of a self-executing provision would suggest.

After ratification of the 2007 Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse, the Italian Penal Code was amended to provide that in case of sexual exploitation of children, trafficking, sexual violence and child soliciting, the police, the prosecutor or defence lawyer have to involve an expert on psychology when interviewing a child victim, taking his or her testimony or conduct a hearing at court. The provisions on the hearing of children in court proceedings are however not being applied consistently throughout the country and rely to a significant degree on the discretion of the judge in charge. More attention to the harmonisation of procedures and practice was therefore recommended.³¹²

In Cyprus, procedures for hearing children's views and taking them into account are not yet being applied in a consistent way. This relates to decision making processes on the best interests of a child, concerning asylum, subsidiary protection, residence permits for victims of trafficking, or return.³¹³ The Commissioner for the Protection of Children's Rights reported that there is still a notably limited understanding, acceptance and application of children's right to be heard for decisions that concern their lives. Children are still often viewed primarily as immature and are not yet being recognised as active members of the society who contribute with their skills and perspectives to shaping and building the society.³¹⁴

In Greece, the right of asylum seeking children to be heard is essentially enshrined in the asylum interview. The quality of the interview is critical as it informs the assessment of the child's case and possible grounds of persecution. Concerns have been reported as cultural mediation and translation are not always made available for the interview. The interview often takes place without the presence of an interpreter or a support person for the child such as the child's guardian. In some cases, other applicants are called in to help out with translation, compromising the confidentiality of the interview. An interview may be conducted in barely a few minutes, not giving due time and space to the child for gaining trust and telling his or her story, which should be a fundamental basis for assessing the child's case and possible grounds of persecution.³¹⁵

310 Portugal, Law on the Protection of Children and Youth at Risk Articles 10, 94. Cited in: IMPACT National Report Portugal, Chapter 3.

311 Constitutional Court Judgment 1/2002. See: United Nations Committee on the Rights of the Child (2009), Consideration of reports submitted by States parties under article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Italy, CRC/C/ITA/3-4, par. 146-147. Cited in: IMPACT National Report Italy, Chapter 3.

312 Italy, Law N°. 172/2012. UNICEF Italia (2012), L'ascolto dei minorenni in ambito giudiziario. Cited in: IMPACT National Report Italy, Chapter 3.

313 See: Trimikliniotis, N., Demetriou, C. (2008), Thematic Study on Child Trafficking – Cyprus, European Union Agency for Fundamental Rights. Cited in: IMPACT National Report Cyprus, Chapter 3.

314 The Commissioner for the Protection of Children's Rights (2011), Report of the Commissioner for Children's Rights in Cyprus to the UN Committee on the Rights of the Child Supplementary Report to the 3rd and 4th Periodic Report of Cyprus, p. 9-10. Cited in: IMPACT National Report Cyprus, Chapter 3.

315 Human Rights Watch (2008), Left to Survive, Systematic Failure to Protect Unaccompanied Migrant Children in Greece, pp. 3-4, 19, 42. UNHCR, France Terre d'Asile, Save the Children and PRAKSIS (2012), Protecting Children on the Move, Addressing protection needs through reception, counselling and referral and enhancing cooperation in Greece, Italy and France, pp. 16-17. Human Rights Council (2013), Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Greece, 18 April 2013, A/HRC/23/46/Add.4, pp. 10,13. Centre for European Constitutional Law, European Migration Network (2009), Policies on Reception, Return and Integration Arrangements for, and Numbers of, Unaccompanied Minors, An EU comparative study, Report on Greece (in Greek), p. 19. Cited in: IMPACT National Report Greece, Chapter 3.



In cases of violence against children, including exploitation, abuse and trafficking, a child victim who does not speak Greek is entitled to interpretation for the communication with the child protection services. In practice, interpretation in the support services and structures is however not provided for by the state. In some cases, volunteers or NGOs offer interpretation, who are however not officially mandated and accountable for taking these tasks on and may not be trained to do so.³¹⁶

In Italy, migrant children have the right to be heard in relation to their placement and in relation to the voluntary assisted return procedure. There are however no common methodological and procedural guidelines and standards for hearing children in these cases so that the possibilities for children to be heard and to inform decision making processes that concern them are highly heterogeneous.³¹⁷ In Portugal, the civil and criminal procedure codes afford the right to interpretation in legal cases for non-nationals in general, including for children who are not Portuguese speakers and for sign language.³¹⁸

There are clearly significant challenges of translating the right to be heard into practice. Concerns about omissions to respect the principle have been reported just as concerns that the right is not effectively applied in practice. In light of the discussion led above in relation to the right to non discrimination (CRC Article 2) and the best interests of the child (CRC Article 3), a tendency is noted that these general principles of the Convention are being introduced into national laws and policies – to varying degrees in the four countries – without however ensuring that they are understood and applied effectively in practice.

The challenge of implementation relates to the lack of standardised and formalised procedures, tools, guidelines and training. When the existing procedures for applying the general principles are not standardised and not consistently subjected to review, monitoring and evaluation, there is no factual basis on which to hold the responsible officials and professionals to account and to progress with the quality of implementation.

Another challenge of implementation relates to achieving a rights-based and holistic understanding of the meaning of these principles for individual cases as well as for policy making processes more generally, at all levels of the public administration. Strengthening the application and respect for the general principles offers important opportunities for making child support and protection services more appropriate to the individual situation of each boy and girl. This would constitute a precondition for strengthening the trust between the child and the authorities and creating incentives for children at risk to accept support services, reducing thereby the risk of exploitation and trafficking.

D. THE CHALLENGE OF BEING EFFECTIVE: PLANNING AND COORDINATION OF CHILD RIGHTS POLICY

Continuing the discussion from the previous chapters, this chapter focuses specifically on the capability of the public administrations to plan, manage and operate effectively in order to translate child rights policy into practice. It discusses structural challenges that the national IMPACT reports identified across the four countries, and the related implications for the risk of exploitation and trafficking. These structural challenges create obstacles in overcoming the fragmentation of mandates and promoting inclusion. They relate to issues of decentralisation, communication and coordination, as well as planning and accountability. In times of the financial and economic crisis, when the public budget allocation has

³¹⁶ Presidential Decree 223/2003 on Protection and assistance to the victims of the crimes envisaged in Articles 323, 323A, 349, 351 and 351A of the Criminal Code pursuant to Article 12 of act 3064/2202, Official Gazette of the Hellenic Republic, Vol A' No.204, 26 August 2003, Article 8. Greek NGO Network for Children Rights Convention (2011), Non-governmental Organizations' Report in Application of the United Nations Convention on the Rights of the Child, p. 15. Cited in: IMPACT National Report Greece, Chapter 3.

³¹⁷ European Migration Network (2009), Unaccompanied Minors: Quantitative aspects and reception, return and integration policies, Analysis of the Italian case for a comparative study, ed. by F. Pittau, A. Ricci, L. Ildiko Timsa, Rome. Cited in: IMPACT National Report Italy, Chapter 3.

³¹⁸ Article 139 of the Code of Civil Procedure. Article 140 of the Criminal Procedure Code. Cited in: IMPACT National Report Portugal, Chapter 3.



been reduced in all four countries, consideration to making the public administrations operate more effectively should be at the heart of the efforts to plan and implement child rights policy, including targeted measures against child exploitation and trafficking. Achieving progress in rendering the public administration and its services more effective might help reducing the case load of cost-intensive criminal investigations and social service delivery related to cases of child exploitation and trafficking.

THE CHALLENGES RESULTING FROM DECENTRALISATION

In each of the four countries, the public administration is challenged to ensure that national laws and policies are implemented effectively and consistently throughout the country. Whereas the public administration of Cyprus is centralised, the other three countries have enacted a decentralised structure, where certain competences and obligations are delegated from the central level to the regional and local levels. Concerns about the impact of decentralisation on local disparities have been reported particularly from Italy, where the regions hold the competence to enact laws and policies, including in the social sectors relevant for child rights policy. Irrespective of the type of administration, challenges are being identified to varying degrees in all countries with regard to the regional and local disparities in the interpretation and application of national laws and policies, service provision, reporting, monitoring and accountability, and the effective communication and consultation between all levels.

In Cyprus, the development of child rights policy is centralised under the competence of the relevant national ministries. The social protection of children is exclusively planned and implemented by the Social Welfare Services of the Ministry of Labour and Social Insurance. The municipal authorities are mainly responsible for developing local youth policies but are institutionally not responsible for providing social services.³¹⁹

The public administration in Cyprus has been characterised as strongly hierarchical with clear and rather rigid vertical lines of command from the central ministries through to the front-line staff in local authorities and service provision. Decisions are taken and communicated in a top-down approach while the public servants at the local levels, such as law enforcement officers and social workers, are not involved or consulted in decision making processes at the central level. The participation and consultation of local authorities, civil society, including NGOs, and academic institutions in policy formulation and implementation is minimal. Public servants get the opportunity to read draft laws but there is a lack of established mechanisms to ensure the exchange of opinions and feedback. The ongoing policy reform process, including in the context of social protection, is intense and complex. Effective communication of updates, relevant information and training are therefore key to ensure that decisions taken at the central level are understood and applied locally, in a timely manner. The strongly vertical approach in Cyprus has been criticised for posing risks to the effective implementation of child rights policy into practice, at the local level. In addition, the public administration is considered strongly fragmented across the various child rights sectors. The institutional mandates and responsibilities are not always clearly defined, which bears a risk of duplication, implementation gaps, and weak accountability.³²⁰

“Basically, the laws exist but they are not implemented. ... I believe there is a big area that needs to be covered so as to be more effective.” (Cyprus)³²¹

³¹⁹ Bantekas, I. Varughese J. (2012), Country Report for the Protection of Children in Cyprus, “Hope for Children” UNCRC Policy Centre, pp.4-5. Cited in: IMPACT National Report Cyprus, Chapter 4.4.1. The Municipalities Law No: 111 of 1985. Cited in: IMPACT National Report Cyprus, Chapter 5.

³²⁰ Centre for Administrative Innovation in the Euro Mediterranean Region (C.A.I.MED) (n.d.), Administrative Reform in the Mediterranean Region, Summary of Cyprus, available at: <http://unpan1.un.org/intradoc/groups/public/documents/caimed/unpan019334.pdf> (accessed April 2013), p. 4. See also: Trimikliniotis, N., Demetriou, C. (2008), Thematic Study on Child Trafficking – Cyprus, European Union Agency for Fundamental Rights. The Commissioner for the Protection of Children’s Rights (2011), Report of the Commissioner for Children’s Rights in Cyprus to the UN Committee on the Rights of the Child Supplementary Report to the 3rd and 4th Periodic Report of Cyprus, p.13. See also: Bantekas, I. Varughese J. (2012), Country Report for the Protection of Children in Cyprus, “Hope for Children” UNCRC Policy Centre. Cited in: IMPACT National Report Cyprus, Chapter 2.

³²¹ Key informant interview MUN, CY01. Cited in: IMPACT National Report Cyprus, Chapter 4.1.3.



Observations about a culture of rather hierarchical government structures were made also in Portugal. The 2011 State Party report to the Committee on the Rights of the Child noted the following: “Culturally, people are used to the idea that government departments are the only existing solutions to solve all matters, as communities are accustomed to hierarchical government structures. This panorama is changing due to a society slowly moving towards a type based on dialogue and less dependent on government”.³²² There is a need to continue fostering a culture of dialogue between the central government and the authorities and service providers at the local level.

Considering the essential knowledge and expertise of officials and professionals working locally with children at risk, the effective communication between the central and the local level would be important to make policies more targeted and relevant to the local contexts and to ensure effective implementation that is up-to-date with the most recent status of law and policy. Consultation between the different levels of the public administration, and with essential private partners, is crucial for making processes more democratic and for promoting their effective implementation.

In Greece, social services are provided through a decentralised structure. Since 2003, the child protection and social services have repeatedly undergone administrative and structural reform. Child protection services are decentralised under the Social Care Units, under the supervision of the Regional Health Directorates.³²³ The decentralisation was newly organised by law in 2010. Seven Decentralised Administrations and the new local authorities organisations (O.T.A) were established and tasked to deliver services, including social services, within the prefectures and municipalities under their administration.³²⁴

In Italy, a federal reform was initiated in 2001 to delegate competences from the central to the regional, provincial and municipal authorities. In the social service sector, health, education, and juvenile justice, the decentralisation leads to regional and local disparities and these in turn may result in instances of differential treatment of children. The social sector, including child protection and family support services, is decentralised with competences delegated to the regional and local authorities who have to bear the costs for operating these services. As the budget allocation from the central government to the regions was reduced by 85% between 2008 and 2011, and in parallel the public revenues generated within the regions decreased due to the financial and economic crisis, the financial capacity of the regions and the service provision for children and families has been essentially weakened. In consequence, the standard, scope and quality of services provided differs significantly between and across regions and municipalities.³²⁵

In some contexts, the relation between the central and regional authorities in Italy has not been clearly defined, which might undermine the impact expected from national policies. The National Plan on Childhood and Adolescence, for instance, is to be drafted by the National Observatory on Childhood and Adolescence with the participation of the regions. From a constitutional point of view, it remains however unclear how the National Plan relates to the regions, whether the regional authorities are to be guided by it or if they are held to develop regional plans accordingly. The National Plan is therefore con-

³²² United Nations Committee on the Rights of the Child (2011), Consideration of the reports submitted by States parties under article 44 of the Convention: Third and fourth periodic reports of States parties due in 2007, Portugal, CRC/C/PRT/3-4, par. 181-182. Cited in: IMPACT National Report Portugal, Chapter 4. Protection.1.

³²³ See: Law 3329/2005, Government Gazette Vol A' No. 81. Law 2646/1998 on the Development of a national social care system and other regulations, Official Gazette of the Hellenic Republic, Vol A' No 236, 20.10.1998. Law 3106/2003 on the Reorganisation of the national system of social care and other regulations, Official Gazette of the Hellenic Republic, Vol A' No 30, 10. February 2003. Cited in: IMPACT National Report Greece, Chapter 4.1.1.

³²⁴ Greece, Law 3852/2010 on the New structure of the local government and the decentralised administration – Programme Kallikratis, Official Gazette of the Hellenic Republic Vol A', No.87, 7 June 2010. Cited in: IMPACT National Report Greece, Chapter 4.1.1. Law 3852/2010 on the New structure of the local government and the decentralised administration – Programme Kallikratis, Official Gazette of the Hellenic Republic Vol A', No.87, 7 June 2010. Cited in: IMPACT National Report Greece, Chapter 4.1.2.

³²⁵ Information provided by key informants: GOV, IT 01; GOV, IT 10; GOV, IT 09. See also Law No. 328/2000. Constitutional Law No. 3/2001, Law No. 42/2009. Cited in: IMPACT National Report Italy, Chapter 2.



sidered to provide only general guidance to the regions, although the regional authorities bear the main competences with regard to social policies.³²⁶ A clearer definition of these relations and competences would potentially enhance the efficiency of national policies and the results for children. The impact of decentralisation is visible also in the health sector, where the variation of standards is considered to be increasing as a result of regional differences in public health spending, heterogeneous levels of the provision and quality of health care services, as well as administrative performance at the local level. Non-nationals and immigrants are particularly affected by differential treatment according to the local practices and standards.³²⁷

Recognising the challenges connected to the decentralisation, a harmonisation process has been launched. It aims to determine the essential standards of services provided by regional and local authorities in matters concerning civil and social rights. In 2013, a specific working group was established under the chairmanship of the National Authority for Children and Adolescence to define essential standards for children.³²⁸

LEADING INSTITUTIONS AND COORDINATION MECHANISMS

Although the fragmented institutional mandates and the devolution of competences present significant challenges for the coordination of child rights policy, dedicated mechanisms for coordination and planning remain weak or partial in the four countries or are entirely missing.³²⁹

In Cyprus, the responsibility for policy making related to CRC implementation is divided between the relevant ministries and institutions. Two Ministerial Committees are specifically tasked to oversee the implementation of the CRC, the Central Committee for the Implementation of the CRC and the Inter-Ministerial Committee to harmonise all legislation for children and to introduce the CRC principles in existing laws and policies. The Central Committee for the Implementation of the Convention on the Rights of the Child was set up in 1995 by the Social Welfare Services. The Committee is comprised of representatives of governmental departments as well as NGOs. The responsibilities of the Central Committee include the submission of law reform proposals and the harmonisation of national laws with the Convention. Furthermore, the Central Committee collects and disseminates information on children's rights, gathers children's views, and raises awareness on their rights. In addition, Parliamentary Committees are dedicated to matters concerning youth, education, labour, and crime. Despite these bodies, it remains a challenge to ensure effective coordination and cooperation between ministries and departments.³³⁰

“ ... the fact that five to six ministries, five to six services from different ministries have to collaborate on a specific issue causes problems.”(Cyprus)³³¹

³²⁶ Key informant interview GOV, IT 08. Gruppo CRC - Gruppo di Lavoro per la Convenzione sui diritti dell'infanzia e dell'adolescenza (2013), VI. Rapporto di aggiornamento sul monitoraggio della Convenzione sui diritti dell'infanzia e dell'adolescenza in Italia 2012-2013, p. 7. Cited in IMPACT National Report Italy, Chapter 2.

³²⁷ Francese M, Romanelli M. (2008), Health Care in Italy, The National Health System, Expenditure, Determinants and Regional Differentials, available at: https://editorialexpress.com/cgi-bin/conference/download.cgi?db_name=iipf64&paper_id=182 (accessed November 2012). Cited in: IMPACT National Report Italy, Chapter 4.2.1.

³²⁸ Cited in: IMPACT National Report Italy, Chapter 4.2.1.

³²⁹ Cyprus: United Nations Committee on the Rights of the Child (2012c), Consideration of Reports submitted by States parties under article 44 of the Convention, Concluding Observations: Cyprus, CRC/C/CYP/CO/3-4, pp. 2-3. Cited in: IMPACT National Report Cyprus, Chapter 4.4.1. Greece: United Nations Committee on the Rights of the Child (2012), Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Greece, CRC/C/GRC/CO/2-3, 13 August 2012, p. 3. Cited in IMPACT National Report Greece, Chapter 2.

³³⁰ Cyprus: Ministerial Decision No 52, 255 (2000) Central Committee for the Implementation of the CRC. Decision of the Council of Ministers No 56,462 (2002). United Nations Committee on the Rights of the Child (2011), Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, Combined third and fourth periodic reports of States parties due in 2008, Republic of Cyprus, CRC/C/CYP/3-4, p.4. Bantekas, I. Varughese J. (2012), Country Report for the Protection of Children in Cyprus, “Hope for Children” UNCRC Policy Centre, p.4-5. Representing Children Worldwide (RCW) (2005), How Children's Voices are Heard in Child Protective Proceedings, <http://www.law.yale.edu/rcw/rcw/jurisdictions/asw/cyprus/frontpage.htm> (accessed April 2013). Cited in: IMPACT National Report Cyprus, Chapter 4.4.1.

³³¹ Key informant interview GOV, CY01. Cited in: IMPACT National Report Cyprus, Chapter 2.



The Ministry of the Interior has the leading role within the central administration on policy planning with regards to victims of trafficking and exploitation. Within the Ministry of Interior, departments such as the Asylum Service, the Civil Registry and Migration Department contribute to the policy planning and implementation in these areas. The primary responsibility for policies concerning the assistance of child victims of exploitation and trafficking rests with the Social Welfare Services of the Ministry of Labour and Social Insurance.³³²

In Greece, the National Observatory for the Rights of Children was established in 2001 with the mandate to develop and monitor policies for the implementation of the CRC and to coordinate the activities of all relevant actors involved, public and private. Although the Observatory had been established by law, it remained inactive. In 2004 and 2005, new initiatives were taken to activate the Observatory, including through a Scientific Commission set up by the Ministry of Education, but to date, the Observatory has not yet become operational. A National Plan of Action for Children's Rights was adopted in 2007 but remained an isolated initiative, unspecific about time-bound activities and budget. A coordination mechanism for the implementation of the CRC and all policy sectors involved is not yet in place.³³³

Since 2012, the responsibility for the social welfare services is under the tenure of the newly formed Ministry of Labour, Social Security and Welfare.³³⁴ It oversees the National Centre for Social Solidarity (EKKA), which acts as the state coordination body of the network of social support and child protection services.³³⁵ The EKKA, in collaboration with the Ministry of Justice, has set up child protection teams with specialised social workers at the municipal level. EKKA is tasked to coordinate the access to social support services offered by private partners and NGOs.³³⁶ EKKA is also responsible for the accommodation of asylum seekers and non-national children who are unaccompanied.³³⁷ There is however no conclusive information about the state of the agency and whether or not it is currently operational.³³⁸

In Italy, various state and non-state coordination mechanisms for child rights policy have been established. The National Observatory on Childhood and Adolescents as the main coordinating body is mandated to coordinate national institutions, regional and local authorities, as well as private service providers and NGOs working on children's rights. The Observatory is chaired by the Ministry of Labour and Social Policies and the department in charge of family policies. The Observatory is tasked to develop the National Plan on Childhood and Adolescents. Although the National Plan shall by law be elaborated every two years in order to advance child rights policy in a coordinated way, the adoption of these plans has been irregular and inconsistent. Since the last plan expired in 2011, a new plan has not been elaborated. Also the National Observatory is no longer operational as the required budget had not been allocated and the ministerial competences on family policies had changed. The Centre of Documentation and Analysis on Childhood and Adolescence acts as the research centre of the

³³² Ministry of Interior (2013), Multidisciplinary Coordination Group, available at: <http://www.moi.gov.cy/moi/moi.nsf/All/35314F1D5073E639C2257AA90024ECF8> (accessed April 2013). Ministry of Labour and Social Insurance (2012), Social Welfare Services Department, available at: http://www.mlsi.gov.cy/mlsi/sws/sws.nsf/dmlmission_en/dmlmission_en?OpenDocument (accessed April 2013). Cited in: IMPACT National Report Cyprus, Chapter 5.

³³³ United Nations Committee on the Rights of the Child (2012), Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Greece, CRC/C/GRC/CO/2-3, 13 August 2012, p. 3. Cited in IMPACT National Report Greece, Chapter 2.

³³⁴ Law 4052/2012, Official Gazette of the Hellenic Republic, Vol. A', No. 41, 1 March 2012. Cited in IMPACT National Report Greece, Chapter 4.1.1.

³³⁵ Greece: Law 3106/2003 on the Reorganisation of the national system of social care and other regulations, Official Gazette of the Hellenic Republic, Vol A' No 30, 10. February 2003. Law 4052/2012, Official Gazette of the Hellenic Republic, Vol. A', No. 41, 1 March 2012. Cited in IMPACT National Report Greece, Chapter 4.1.1.

³³⁶ Law 3961/2011 on the amendment of Law 3126/2003 on the Ministers' penal responsibility and other regulations, Official Gazette of the Hellenic Republic, Vol A' No.97, 29 April 2011, Article 8. Cited in IMPACT National Report Greece, Chapter 4.1.1.

³³⁷ Law 4052/2012. Cited in: IMPACT National Report Greece, Chapter 5.

³³⁸ Key informant interview. Cited in IMPACT National Report Greece, Chapter 4.1.1.



National Observatory and collaborates with the Ministry of Labour and Social Policies, the regions and other institutions. The Parliamentary Commission for Childhood and Adolescence is tasked to assess and inform the status of implementation of international child rights standards. National NGOs have also set up specialised platforms and cooperation networks.³³⁹

In Portugal, the National Initiative for Childhood and Adolescence (INIA) 2009-2010 was created in response to the recommendation from the Committee on the Rights of the Child to develop a comprehensive national strategy for the implementation of the CRC. The National Initiative defined the national strategy for the promotion of the rights of the child in Portugal and aimed to foster a culture of cooperation and networking of all public and private actors involved in this field. It foresaw the development of an action plan setting out specific measures and common strategies to guide the activities of all public and private bodies working in this area. The strategy was developed in a broad-based consultative process involving all relevant public sectors, civil society, citizens in general, children, adolescents, parents and other caregivers. The planning and coordination of the strategy was under the responsibility of the Deputy Secretary of State of Social Affairs, supported by an Inter-Departmental Team for Technical Support. After the election of a new government by mid-2011, the strategy was not continued despite the important opportunities that it had presented and, at present, the coordination mechanism for CRC implementation in Portugal is not clearly defined.³⁴⁰

The National Commission for the Protection of Children and Young People at Risk acts as a specialised coordination body in the child protection field. It is mandated to plan state interventions including the coordination, follow-up and assessment of the activities of government and community agencies involved in the protection of children and young people at risk.³⁴¹ The National Commission is affiliated to the Ministry of Justice and the Ministry of Labour and Social Solidarity and it is formed by the representatives of the main state departments involved in child and youth policy. In addition, the Commission has representatives from local government and autonomous regions, the Ombudsperson and NGOs. Its mandate comprises, among others, to inform law reform concerning children's rights; to support the establishment of interdisciplinary teams in child rights and protection; conduct audits of the performance of social and child protection services in different contexts; as well as activities related to the alternative care of children and juvenile justice matters.³⁴²

Portugal's 2011 State Party report to the Committee on the Rights of the Child identified some struc-

³³⁹ The Parliamentary Commission for Childhood (Commissione Parlamentare Infanzia) was created by the Law 451/1997 (for more information see: http://www.camera.it/_bicameralli/infanzia/). National Observatory on Childhood and Adolescence (Osservatorio nazionale per l'infanzia e l'adolescenza) (for more details please see <http://www.lavoro.gov.it/Lavoro/Istituzionale/Ministero/OrganiCollegiali/ossinfanzia.htm>). Centre of Documentation and analysis on childhood and adolescence" (Centro di documentazione e analisi per l'infanzia e l'adolescenza), which is the study and research centre of the National Observatory (for more details, see: <http://www.minori.it/centronazionale>). National Observatory on Family (Osservatorio Nazionale sulla Famiglia) is a study and research body supporting the definition of family policies (for more details, please see <http://www.osservatorionazionalefamiglie.it>). Among the various third sector organisations' experiences and projects, it is worth mentioning here the monitoring mechanism set up by the NGOs network called "Working Group on the UN Convention on the Rights of the Childhood and Adolescence" (Gruppo di Lavoro per la Convenzione sui Diritti dell'Infanzia e dell'Adolescenza) that monitors the implementation of the CRC and of the CRC Committee recommendations (for more details, please see <http://grupprocrc.net>) and the national coordination table, open to the NGOs and organisations working in the field of children's rights, "PIDIDA - For the Rights of Childhood and Adolescence Per i Diritti dell'Infanzia e dell'Adolescenza" (for more details, please see <http://www.infanziaediritti.it>). (Autorità Garante per l'Infanzia e l'Adolescenza 2012. Cited in: IMPACT National Report Italy, Chapter 2. For more information: on the "Parliamentary Commission for Childhood and Adolescence, please see: http://www.camera.it/_bicameralli/nochiosco.asp?pagina=_bicameralli/leg16/infanzia/home.htm; on the "National Observatory on Childhood and Adolescence, please see <http://www.lavoro.gov.it/Lavoro/Istituzionale/Ministero/OrganiCollegiali/ossinfanzia.htm>; on the "Centre of Documentation and analysis on Childhood and Adolescence", please see <http://www.minori.it/centronazionale> (Accessed September 2013). Law 451/1997 Article 2, para. 2. Gruppo CRC - Gruppo di Lavoro per la Convenzione sui diritti dell'infanzia e dell'adolescenza (2013), VI. Rapporto di aggiornamento sul monitoraggio della Convenzione sui diritti dell'infanzia e dell'adolescenza in Italia 2012-2013. Cited in IMPACT National Report Italy, Chapter 2.

³⁴⁰ United Nations Committee on the Rights of the Child (2011), Consideration of the reports submitted by States parties under article 44 of the Convention: Third and fourth periodic reports of States parties due in 2007, Portugal, CRC/C/PRT/3-4, par. 9-10. Cited in IMPACT National Report Portugal, Chapter 2.

³⁴¹ Decree-Law 98/1998, Government Gazette, 1st Series-A, No. 91, 18 April 1998.

³⁴² Decree-Law 98/98, article 1 (2). Cited in: IMPACT National Report Portugal, Chapter 5.



tural difficulties in relation to the child protection system. They include, among others, the challenge of ensuring effective planning and coordination of the national policy making processes and implementation. Although the cooperation between police forces and child protection services are essential at the local level, the Ministry overseeing the police forces is not yet represented in the National Commission for the Protection of Children and Young People. This creates a conflict with the premise that coordination between these agencies is required by law. In addition, the National Commission's mandate provides for a policy planning competence, yet there are no measures in place to authorise the Commission to guide the planning of the relevant ministries in matters relating to child protection.³⁴³

“I think that policies are still very scattered. It seems that each and every ministry wants to do something regarding the child”. (Portugal)³⁴⁴

Coordination is essential between public authorities across the different sectors and at all levels and is equally essential for the cooperation with private partners. Weak coordination bears the risk that services are duplicated or that some groups are missing out on services. In Cyprus, a child welfare mapping study evidenced these challenges in relation to the coordination of services provided by NGOs.³⁴⁵

In Greece, it was noted that the basic needs of national and non-national children, such as accommodation, health care and pharmaceutical support are addressed to a significant extent by NGOs.³⁴⁶ The service delivery in social welfare and child protection, including alternative care for children, rests also to a large extent under the responsibility of private entities and NGOs, whereas state leadership, budgetary support to private partners, and accountability are weak.³⁴⁷ Several NGOs and non-state networks in Greece have repeatedly expressed their concern about the weak cooperation with state actors. Especially NGOs working on the rights of children belonging to specific ethnic, religious, linguistic and cultural groups felt excluded from state-NGO cooperation, as for instance the ‘NGO Network for the monitoring of the implementation of the CRC’ created in 2009 by the Greek Ombudsman. The Committee on the Rights of the Child recommended to strengthen this cooperation and to make it more inclusive and diversity friendly.³⁴⁸

The high number and diversity of state and non-state actors involved in child rights policy planning, implementation and service provision would require stronger measures for cooperation and coordination. Coordination is considered to be more effective when it is institutionalised with a clearly assigned leading role and adequate budget. The absence or weakness of coordination constitutes a major structural challenge inhibiting the effective implementation of the CRC. Where institutional mandates are divided between many different institutions at the central, regional and local levels, it becomes challenging to assess the overall budget allocated to child rights policy by each of these institutions, and to set up a coordinated mechanism for data collection and analysis. In consequence, auditing,

³⁴³ United Nations Committee on the Rights of the Child (2011), Consideration of the reports submitted by States parties under article 44 of the Convention: Third and fourth periodic reports of States parties due in 2007, Portugal, CRC/C/PRT/3-4. Cited in: IMPACT National Report Portugal, Chapter 4. Protection.1.

³⁴⁴ Key informant interview ORG, PT12. Cited in: IMPACT National Report Portugal, Chapter 5.

³⁴⁵ Pancyprian Volunteerism Coordinative Council (PVCC) (2010), Mapping the Needs of the Vulnerable Groups, Research funded under the European Year of Combating Poverty and Social Exclusion 2010 by the European Social Fund Unit of the Ministry of Labour and Social Insurance, Consortium: University of Nicosia (Researcher: Cochliou Despina) and the Pancyprian Volunteerism Coordinative Council, Nicosia. Cochliou, D. and Spaneas, S. (2009), Asylum System in Cyprus, A field for social work practice, European Journal of Social Work, 12(4), pp.535-540. Themistokleous, S., Charalambos V., and Michalinos Z., (2012), Immigration and Integration Policies in Cyprus, Opening the Door? Immigration and integration in the European Union, by Vit Novotny, Centre for European Studies. Cited in: IMPACT National Report Cyprus, Chapter 4.4.1.

³⁴⁶ KMOP (2012), GATE: National Report, Greece, under the EU funded project GATE : Guardians Against Child Trafficking and Exploitation, Athens, October 2012, p. 27. Cited in: IMPACT National Report Greece, Chapter 4.1.1.

³⁴⁷ Greek NGO Network for Children Rights Convention (2011), Non-governmental Organizations' Report in Application of the United Nations Convention on the Rights of the Child, p. 16. Cited in: IMPACT National Report Greece, Chapter 4.1.1.

³⁴⁸ Greek Helsinki Monitor (GHM), Minority Rights Group - Greece (MRG-G), Coordinated Organizations and Communities for Roma Human Rights in Greece (SOKADRE) (2011), Parallel Report on Greece's Compliance with the UN Convention on the Rights of the Child, p. 18. Cited in: IMPACT National Report Greece, Chapter 5.



monitoring and evaluating the performance of the institutions concerned is barely feasible and the state is missing out on important data to inform law and policy reform. As coordination mechanisms are also key to making the public administrations and service delivery cost-efficient, by preventing duplication and supporting a balanced use of public funding, they are essential in times of crisis. Reducing coordination due to financial constraints can be considered counterproductive and potentially harmful from an investment perspective focused on the rights and well-being of the children and the sustainable development of the societies.

What is still weak or missing in the broad policy area of CRC implementation has however been set up in the anti-trafficking domain, despite the fact that the target group of anti-trafficking policies is extremely small-scale compared to the target group of child rights policy with its potential for social investment. Different types of coordination mechanisms involving relevant ministries and public authorities, as well as representatives from NGOs, civil society and service providers have been established in most of the countries studied by IMPACT. In Italy, an Inter-ministerial Committee for the support of victims of trafficking, violence and exploitation had been in place but was suspended in 2013.³⁴⁹

In Cyprus, a Multidisciplinary Coordination Group against Trafficking in Human Beings is tasked to take all necessary measures for combating trafficking and exploitation and for the protection of victims. The National Anti-trafficking Co-ordinator is the head of the Multidisciplinary Coordinating Group. The Group provides a framework for the cooperation between all relevant state authorities as well as NGOs.³⁵⁰

In Greece, the ad hoc Special Committee Against Trafficking in Human Beings offers a platform for the cooperation of representatives from the Ministries of Justice, Finance, Interior, Foreign Affairs, Health and Social Solidarity, Labour and Social Welfare as well as Education. The Committee adopted a National Plan of Action against Trafficking and Smuggling in Human Beings in 2004 to guide the coordinated implementation of anti-trafficking measures. The National Plan has however not been promulgated.³⁵¹ With the transposition of the 2011 Trafficking Directive of the European Commission, a law was adopted in 2013 to establish a National Rapporteur on trafficking in human beings under the Central Service of the Ministry of Foreign Affairs. The National Rapporteur is mandated to coordinate the development and implementation of the national strategy against human trafficking.³⁵²

In Portugal, a national Observatory on Trafficking in Human Beings was established in 2008.³⁵³ In June 2013, a National Trafficking Victims Support and Protection Network was set up.³⁵⁴ Coordinated by the Commission for Citizenship and Gender Equality, the Network is composed of relevant institutions operating at the central and local levels, and NGOs. It aims to offer a platform for cooperation and information sharing to enhance the prevention of trafficking and the identification, referral, protection and reintegration of affected persons. It is also concerned with data collection and the development of joint strategies and training. The Network promotes a multi-disciplinary approach involving juridical, psychological and social methods.³⁵⁵

³⁴⁹ Italy, Decree of the President n° 102 of 14th May 2007, Article 1. The Committee was suspended in June 2013. European Union Agency for Fundamental Rights (2009(b)), *Child Trafficking in the European Union, Challenges, perspectives and good practices*, Vienna. Caritas Italiana, *Coordinamento Nazionale Comunità Accoglienza (2013), Anticipazioni su Punto e a Capo Sulla Tratta, Presentazione del 1° rapporto sulla tratta delle persone e grave sfruttamento*. Cited in: IMPACT National Report Italy: Chapter 4.4.3.

³⁵⁰ Cited in: IMPACT National Report Cyprus, Chapter 5.

³⁵¹ European Union Agency for Fundamental Rights (2008), *Thematic Study on Child Trafficking*, August 2008, pp. 15-17. Cited in: IMPACT National Report Greece, Chapter 4.4.4.

³⁵² Law 4198/2013 on the Prevention and fight against human trafficking, protection of its victims and other regulations, *Official Gazette of the Hellenic Republic Vol A'*, No.215, Article 6. Cited in: IMPACT National Report Greece, Chapter 4.4.4.

³⁵³ Law 229/2008 . Cited in: IMPACT National Report Portugal, Chapter 4.Protection.4.

³⁵⁴ Protocol on the Creation of a National Trafficking Victims Support and Protection Network (RAPVT), available at: http://www.iacrianca.pt/images/stories/noticias_claudia/protocolorapvt.pdf (accessed September 2013). Cited in: IMPACT National Report Portugal, Chapter 4.Protection.4.

³⁵⁵ Cited in: IMPACT National Report Portugal, Chapter 4.Protection.4.



These examples of coordination in the anti-trafficking context suggest that the obstacle to developing effective cooperation mechanisms is not a question of technical competence. It might relate however to a limited awareness of the strategic importance of investing in coordinated child rights policy and, in the countries where coordination is missing, a rather low political priority attached to the child rights field.

WEAK DATA BASE

Reliable and up-to-date data on child rights indicators are key to ensuring that policy planning and implementation are informed by knowledge and evidence. They are also a precondition for impact assessments, evaluation and monitoring, which in turn are required to guide reform processes and measure progress. Yet, the countries studied by IMPACT are struggling – to varying degrees – to provide official statistics and disaggregated data.

In Cyprus, systematic mechanisms for the collection and analysis of quantitative and qualitative data are not in place. As a result, data on child rights and protection themes and indicators are hardly available in areas such as children deprived of family care, migrant and refugee children. A reliable analysis of the situation of these groups of children in Cyprus can therefore not be attained. This important basis for policy planning and decision taking processes, the development of targeted services, as well as monitoring and evaluation is missing.³⁵⁶

In Italy, the institutional fragmentation is reflected also in the data collection mechanisms. At the central level, there are various institutions involved in data collection concerning unaccompanied child migrants, including EU citizens, asylum seeking children, child victims of trafficking and exploitation. They include the Ministry of Interior, Directorate-General on Immigration and Integration Policies of the Ministry of Labour and Social Policies, and the Department for Equal Opportunities, whereas competences are also split up between the central, regional and local levels of the public administration. The methodology for data collection has, however, not yet been standardised and there are significant discrepancies in the capacity of the regional data collection mechanisms. In addition, the registrations of asylum applications at the ministerial level are not considered reliable and up-to-date. The data collected are therefore not considered comparable nor are they consistently disseminated or publicly accessible.³⁵⁷

In Portugal, the absence of an integrated system for data collection and research has been noted in particular for the child protection context. A common methodology would be required to achieve the systematic collection and analysis of statistical data from the organisations active in this field, including the local child protection commissions, the different police forces, judicial bodies, social security services, health services, and the network of schools, as well as the Ombudsperson's Office.³⁵⁸

Due to the weak database, important information for the identification of the most marginalised and excluded groups, an assessment and monitoring of their situations is missing. Data would however be essential to guide the development of measures targeted specifically at these groups and to promote their inclusion.

This chapter discussed the structural challenges that are inherent within the public administrations. These structural challenges – which were identified to varying degrees across the four countries

³⁵⁶ Commissioner for the Protection of Children's Rights, 2011, p. 33. Cited in: IMPACT National Report Cyprus, Chapter 4.1.1.

³⁵⁷ See: Save the Children Italia (2010), *Minori stranieri in Italia, Identificazione, accoglienza e prospettive per il futuro*. United Nations Committee on the Rights of the Child (2011), *Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Italy, CRC/C/ITA/CO/3-4*. Key informant interviews GOV, IT 01; GOV, IT 09. Cited in: IMPACT National Report Italy, Chapter 4.3.1.

³⁵⁸ Cited in: IMPACT National Report Portugal, Chapter 4. Protection.1.



– pose obstacles for the effective implementation of child rights policy into practice. They create patterns of inefficiency that might undermine the impact of whole branches of the administration, to the detriment of the children and societies concerned. In some contexts, important groundwork for meaningful reform processes is being neglected. Such groundwork includes engaging in a consultative dialogue with local level authorities and front-line staff in order to subject the decisions taken at the central level of government to a ‘reality check’ of their appropriateness for the local level; the generation of reliable qualitative and quantitative data to guide sensible policy reform processes; and capitalising on the experience and lessons learned from positive and innovative initiatives.

By inhibiting the effective implementation of the Convention and creating local and regional disparities, these structural challenges have implications for the risk of exploitation and trafficking. Effective public administration management is a precondition for maximising the results for children and the societies even under reduced public resources. This fundamental notion is vital in times of financial and economic crisis. In some national and local contexts, initiatives are underway to identify and tackle structural challenges and inefficiencies. It would be important to scale up these initiatives and to see them through to sustainable and effective implementation into practice, as a precondition for making policies against child exploitation and trafficking more effective.

E. THE CHALLENGE OF ACHIEVING COMPLIANCE: INFRINGEMENTS AGAINST THE RIGHTS OF NON-NATIONAL CHILDREN

The IMPACT national reports collected evidence of cases in which compliance with international standards has not yet been achieved. As evidenced in this section, studies and reports issued by international NGOs express severe concerns about allegations of infringements against children’s rights, particularly from Greece and with some examples reported from Italy. Infringements against children’s rights have been reported against national and non-national children. This chapter focuses on allegations concerning cases of migrant and asylum seeking children, whereas cases of exclusion and discrimination of national children have been discussed primarily in Chapter 5.b.

IMMIGRATION DETENTION UNDER INAPPROPRIATE CONDITIONS

In Greece, it is common practice to systematically detain undocumented migrants, including unaccompanied children and families. Immigration detention is envisaged for an initial period of six months and can be extended up to 18 months. This applies not only to undocumented migrants awaiting deportation, but also to asylum seekers awaiting the adjudication of their application and children for whom alternative accommodation is not available. As the immigration detention centres have been overcrowded, migrants are occasionally released with an expulsion order that provides them another 30 days of legal residency in the country before returning to the country of origin. Additional detention centres have been established as ‘pre-removal’ centres with a capacity for up to 10,000 persons.³⁵⁹

Due to the limited funding available for the reception of unaccompanied children, the number of places for children is insufficient and many undocumented children are held in immigration detention together with adults, sometimes for extended periods of time and often under overcrowded, unhygienic and

³⁵⁹ Greece, Law 3907/2011, Article 30. Human Rights Council (2013), Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Greece, 18 April 2013, A/HRC/23/46/Add.4, p. 11. Human Rights Watch (2008), *Left to Survive, Systematic Failure to Protect Unaccompanied Migrant Children in Greece*. Cited in. IMPACT National Report Greece, Chapter 4.3.1.



inhumane conditions. These conditions are in contravention to international and national law regulating the reception of asylum seekers.³⁶⁰

Immigration detention is ordered by the police. The decision itself is not subject to automatic judicial review, but decisions over the extension of detention are. The automatic review is however not case-specific. Migrants can object to their detention but have to submit the objection in writing and in Greek. Interpretation and legal support are not guaranteed and are barely accessible. Unaccompanied children can object to the detention before the President, the first-instance court of the region in which the child is detained or the relevant judge of that court. These procedures are rendering the submission of an objection practically impossible.³⁶¹

In light of multiple infringements against the rights of child migrants and reports about human rights violations, the European Court of Human Rights ruled in 2011 that the return of asylum seekers from Belgium to Greece, under the Dublin II Council Regulation, was violating the European Convention of Human Rights (Article 3). In response to this ruling, most EU Member States have ceased transferring asylum seeking children back to Greece.³⁶²

VIOLENCE AT THE HANDS OF STATE OFFICIALS

In Greece, unaccompanied children interviewed by Human Rights Watch stated that they had experienced maltreatment and violence at the hands of state agents in Greece, including by police, port police, coast guards or border guards. Children testified that they had witnessed beatings and mock executions of unaccompanied children and other migrants on Greek territory. Allegations of cases in which police officers beat and maltreated migrants, including children, were also reported after the 2010 visit to Greece of the UN Special Rapporteur on Torture. A special reporting and complaint mechanism for cases of violence and infringements against the human rights of migrant children is not in place and the mainstream complaint mechanisms are hardly accessible for migrant children entering Greece. There is no official response to hold the responsible officials and authorities accountable and the reported cases were not investigated.³⁶³ Allegations of maltreatment by police or immigration officials of unaccompanied children reaching the shores have also been reported from Italy.³⁶⁴

360 KMOP (2012), GATE: National Report, Greece, under the EU funded project GATE : Guardians Against Child Trafficking and Exploitation, Athens, October 2012. Human Rights Watch (2012), World Report 2012, Events of 2011, USA, p.447. Centre for European Constitutional Law, European Migration Network (2009), Policies on Reception, Return and Integration Arrangements for, and Numbers of, Unaccompanied Minors, An EU comparative study, Report on Greece (in Greek), p.22. Medecins Sans Frontieres (2010), International Activity Report 2010. Human Rights Watch (2013), Turned Away, Summary Returns of Unaccompanied Migrant Children and Adult Asylum Seekers from Italy to Greece, p.8. Key informant interview ORG, GR05. Law 3907/2011, On the establishment of an Asylum Service and a First Reception Service, transposition into Greek legislation of the provisions of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third-country nationals" and other provisions, Official Gazette of the Hellenic Republic Vol A', No.7. Cited in: IMPACT National Report Greece, Chapter 4.1.1.

361 GR: Law 3386/2005, Article 76. Law 3907/2011, Article 30. Human Rights Council (2013), Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Greece, 18 April 2013, A/HRC/23/46/Add.4, p. 13-14. Cited in. IMPACT National Report Greece, Chapter 4.3.1.

362 Human Rights Council (2013), Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Greece, 18 April 2013, A/HRC/23/46/Add.4, p. 16. Cited in. IMPACT National Report Greece, Chapter 4.3.1.

363 Human Rights Watch (2008), Left to Survive, Systematic Failure to Protect Unaccompanied Migrant Children in Greece, pp. 20-24. Human Rights Council (2013), Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Greece, 18 April 2013, A/HRC/23/46/Add.4, pp 22-24. Greek NGO Network for Children Rights Convention (2011), Non-governmental Organizations' Report in Application of the United Nations Convention on the Rights of the Child. European Union Agency for Fundamental Rights (2011), Separated Asylum-seeking Children in the European Union Member States, Comparative Report, Publications Office of the European Union, Luxembourg, pp. 72-73. Human Rights Watch (2008), Left to Survive, Systematic Failure to Protect Unaccompanied Migrant Children in Greece.. Cited in. IMPACT National Report Greece, Chapter 4.3.1. and Chapter 5.

364 Amnesty International (2006), Invisibili, Minori migranti detenuti all'arrivo in Italia, Torino, EGA. Amnesty International (2007), Dodici mesi dalla parte dei minori migranti detenuti all'arrivo in Italia, Roma. Save the Children Italia (2009), Accoglienza e tutela dei diritti dei minori nel Centro di Lampedusa, Roma. Save the Children Italia (2009), L'accoglienza dei minori via mare. Rapporto finale di monitoraggio delle comunità alloggio per minori in Sicilia, Roma. Cited in: IMPACT National Report Italy, Chapter 4.3.1.



REFUSAL OF ENTRY, EXPULSIONS AND DEPORTATIONS

Greece has a considerable track record of deporting unaccompanied children without putting into place the required safeguards, such as an assessment of the child's best interest, family tracing and ensuring that the child returns to adequate care in the country of origin.³⁶⁵ During 2007 and the first six months of 2008, 12,904 deportation orders were issued to children, accompanied and unaccompanied, out of which 2,599 were carried out. Both the Greek Ombudsman and the National Commission for Human Rights had urged the Government of Greece to cease deporting children and instead carry out the appropriate procedures for the children's safe return to their countries of origin wherever that was in their best interests.³⁶⁶

By law, the return or removal of an undocumented child who is unaccompanied requires that the best interests of the child have to be taken into consideration and that assistance be provided to ensure that the child will be met, upon return, by a parent or guardian or an adequate reception facility.³⁶⁷ The legal prohibition of the deportation of non-national children applies only to children who have applied for asylum, who have been recognised as refugees, those who have parents or guardians legally residing in Greece or who have been in conflict with the law and have been sentenced by a Juvenile Court. Unaccompanied children not falling into these categories are therefore not effectively protected from deportation.³⁶⁸ An effective monitoring system of the removal and deportation of third country nationals from Greece is not in place, although it has been provided for by law.³⁶⁹ A procedure for assisted repatriation is only provided for recognized victims of trafficking, which implies a differential treatment for different groups of children on the grounds of status. In Italy, the law prohibits the expulsion of unaccompanied children who are third country nationals. Exceptions are possible upon an order by the Juvenile Court for reasons related to public order and state security, and when the parents of the child are being expelled.³⁷⁰ The law does however not effectively protect unaccompanied children from refusal of entry when a child is identified at a border port or immediately after entry.³⁷¹ The Immigration Act legitimises the rejection at the border or expulsion of children by providing that these decisions have to be implemented in a way that takes into account the personal conditions of the child. The law remains silent on how the conditions are to be assessed and on the procedures and safeguards to be adopted.³⁷² These provisions under the Immigration Act are not in line with international standards and are not in coherence with other national laws, especially the right to apply for asylum afforded under

365 Human Rights Watch (2008), *Left to Survive, Systematic Failure to Protect Unaccompanied Migrant Children in Greece*. United Nations Committee on the Rights of the Child (2002), Summary Record of the 754th Meeting, CRC/C/SR.754, 13 September 2002, par. 48. UN Commission on Human Rights (2006), Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Juan Miguel Petit, Mission to Greece, E/CN.4/2006/67/Add.3, 27 March 2006, par. 35. George Moschos (2005), Keynote Speech, Council of Europe Regional Conference on "Migration of Unaccompanied Minors: Acting in the Best Interests of the Child," 27-28 October 2005, MG-RCONF (2005) 27e, p. 27. Cited in: IMPACT National Report Greece, Chapter 4.3.1.

366 The Greek Ombudsman (2005), Special Report: Administrative Detention and Deportation of Alien Minors, Athens, October 2005, pp. 25-35. Human Rights Watch (2008), *Left to Survive, Systematic Failure to Protect Unaccompanied Migrant Children in Greece*. National Commission for Human Rights (2007), Observations Regarding the Issue of Unaccompanied Minors, 15 February 2007, National Commission for Human Rights, Report 2006: Summary in English, March 2007. Cited in: IMPACT National Report Greece, Chapter 4.3.1.

367 Law 3907/2011, On the establishment of an Asylum Service and a First Reception Service, transposition into Greek legislation of the provisions of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third-country nationals" and other provisions, Official Gazette of the Hellenic Republic Vol A', No.7. Article 25. Cited in: IMPACT National Report Greece, Chapter 4.3.1.

368 Greece, Law 3386/2005, Article 79. Cited in: IMPACT National Report Greece, Chapter 4.3.1.

369 Law 3907/2011, On the establishment of an Asylum Service and a First Reception Service, transposition into Greek legislation of the provisions of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third-country nationals" and other provisions, Official Gazette of the Hellenic Republic Vol A', No.7. European Union Agency for Fundamental Rights (2012), Annual Report 2012, Fundamental Rights: Challenges and achievements in 2012, Publications Office of the European Union, Luxembourg, p. 55. Cited in: IMPACT National Report Greece, Chapter 4.3.1.

370 Immigration Act Article 13, para.1, Article 19, para. 2, Article 31, para. 4.

371 Immigration Act Articles 10 and 14. Rozzi, E. (2008), The situation of EU and non-EU separated children in Italy, E-Migrinter, No.. 2, pp. 13-26, 2008.

372 Law 129/2011, completing the transposition of Directives 2004/38/EC and 2008/115/EC, amending the Immigration Act, Article 19, para. 2 bis. See also: Savio, G. (2011), La nuova disciplina delle espulsioni dopo la legge 129/2011, available at: <http://www.meltingpot.org/La-nuova-disciplina-delle-espulsioni-dopo-la-legge-129-2011.html#>.UbsvDZvWbWbk (accessed June 2013). Cited in: IMPACT National Report Italy, Chapter 4.3.1.



the Constitution. The refusal of entry and the expulsion of children are therefore not considered lawful, neither in individual cases nor collectively.³⁷³

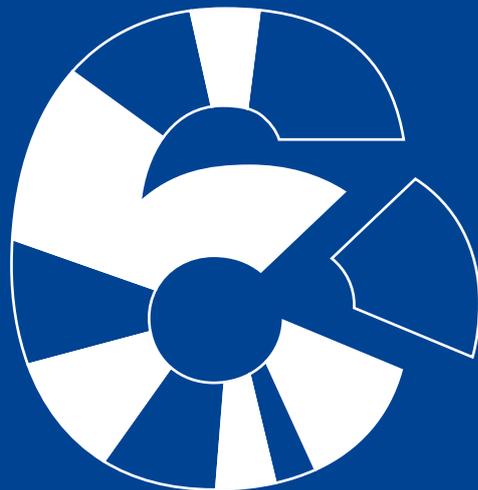
In May 2009, Italy implemented however a 'push-back' policy and began to intercept migrant boats in international waters and to force them back to Libya from where they had embarked, without verifying whether some of the migrants were refugees, asylum-seekers, pregnant women, unaccompanied children, or victims of trafficking. In February 2012, the European Court of Human Rights ruled against Italy for these collective expulsions, which had exposed people to inhuman and degrading treatment in Libya or in their countries of origin. Despite the ruling by the European Court, Human Rights Watch reported that serious child rights violations occurred also more recently as Italian port officials at the Adriatic ports failed to admit children to the territory and to provide access to information on their rights.³⁷⁴ Many of the practices reported in this section constitute a breach of international, European and national standards. The associated fears they raise in child migrants constitute a deterring factor for children to get in contact with the authorities and to apply for asylum. The vast majority of unaccompanied migrant children in Greece are therefore considered to be living on the streets and to be at risk of exploitation and trafficking. At the point of arrival in Greece and often for extended periods of time, there are no guarantees that children's basic needs are met and that their human rights are safeguarded.³⁷⁵ Studies and reports keep underlining the importance of building trust between children and the state authorities as an essential precondition to the identification of children who have been exposed to exploitation and trafficking, for enabling the authorities to offer support services, getting children to accept such services, and obtaining their testimonies for investigations where appropriate. Where this trust is being undermined by inappropriate and illegal behaviour by state officials, the chances of supporting children to exercise their rights and to receive appropriate services are reduced significantly.

373 Key informant interview ORG, IT 07. Cited in: IMPACT National Report Italy, Chapter 4.3.1.

374 Human Rights Watch (2013), Turned Away, Summary Returns of Unaccompanied Migrant Children and Adult Asylum Seekers from Italy to Greece. Cited in: IMPACT National Report Italy, Chapter 4.3.1.

375 Human Rights Watch (2012), Periodic Review of Greece, p. 8. Cited in: IMPACT National Report Greece, Chapter 4.1.1.





CONCLUSIONS AND RECOMMENDATIONS

It was a central objective of IMPACT to test the hypothesis that strengthening the implementation of the Convention on the Rights of the Child will contribute to preventing child exploitation and trafficking and protecting children at risk. The objective was to understand the correlations between the status and quality of implementation and the vulnerability of children to exploitation and trafficking. The 'IMPACT variables' were applied to guide the analysis in the four countries. The study analysed, through examples selected from each of the four countries, the level of inclusiveness, appropriateness, effectiveness and compliance of national laws, policies and practice, as well as their coherence across sectors.

Through the selective discussion presented in this transnational analysis, the study comes to the conclusion that the national structures and systems in place within the four countries do not yet provide a sufficiently strong basis for anti-trafficking measures to take hold. Gaps have been identified primarily with regard to two issues: a) national child protection systems are not yet sufficiently prepared to prevent exploitation and trafficking and to protect children at risk; and b) national child protection systems have not yet been effectively integrated into broader strategies for the implementation of the Convention. Although the national laws and policies are considered to offer a sufficient margin of action within all four countries, the overall finding is that these laws and policies are not being implemented consistently into practice. Implementation gaps continue to create an environment in which children are vulnerable to exploitation and trafficking.

THE NEED TO STRENGTHEN NATIONAL CHILD PROTECTION SYSTEMS

The study identified examples to affirm that children are considered vulnerable to exploitation and trafficking because national child protection systems are not operating effectively. There is a lack of standardised procedures and referral mechanisms for children at risk and child victims. In the absence of such procedures and mechanisms, children might not be identified as being at risk, they might not be correctly identified as victims of trafficking, they might not be referred to support services, or services might not be provided according to minimum standards of quality.

Assessing the best interests of children, listening to them and taking their views into account for decision making processes is critical for developing policies, procedures and services that are appropriate for the individual boys and girls concerned. The determination of a child's best interests needs to be based on an individual case and needs assessment, taking the child's current situation, history and aspirations for the future into account. Methods and tools to guide and formalise these procedures vary between the four countries and are entirely absent in some contexts. Where national child protection systems fail to employ standardised procedures, their effectiveness is significantly undermined.



PROMOTING INCLUSION AND SERVICES BY VALUING DIVERSITIES

The study affirmed also that children are considered vulnerable to exploitation and trafficking because national laws and policies are not implemented in a way that is inclusive. Although in all four countries many laws relating to children are inclusive and apply to each child within the territory of the state, they are not being implemented in an inclusive way. Some groups of children are affected by marginalisation and exclusion, differential treatment on the grounds of status, or discrimination. For some groups of children, practical or administrative hurdles pose obstacles in accessing services and exercising their rights.

The study identified inclusive child protection services that are targeted at all children, including child migrants, unaccompanied children and child victims of trafficking, irrespective of their status and the challenges they are facing. Concerns were noted that the inclusion has, in some contexts, led to a generalisation of services that do not always succeed to take the individual situation and needs of a child into account.

Promoting inclusive child protection services offers opportunities for reducing the risk that children remain excluded on the grounds of their status. It is however also important to equip a national child protection system with specialised expertise, skills and competences to value the diversity of children and their specific needs. Many cases of exploitation and trafficking, especially when non-national children are involved, are highly complex and specialised expertise on child protection, social affairs, criminal law matters, migration issues, interpretation and cultural mediation need to be available.

Despite the trend to enact inclusive laws, policy making and practice are still strongly oriented at 'categories' of children such as unaccompanied asylum seeking children, migrant children from within the EU, and child victims of trafficking. Institutional mandates and referral mechanisms for these groups of children have been specifically defined in some of the countries. Where effective linkages between referral mechanisms for different groups of children are missing, as was reported from Italy, there is clearly a risk that the status of the child becomes an important determinant for the type of response offered, and might override the assessment of the individual situation and needs of a child. The status of a child is defined primarily by his or her immigration status and the status as a victim of a specific offence. The strong reliance on status and identification bears a risk of creating different standards for different groups, and leaving some groups of children excluded.

PROMOTING COHERENCE BETWEEN CHILD PROTECTION POLICIES AND IMMIGRATION REGIME

Children are in many contexts prevented from enjoying their rights due to their immigration status. The way that the national immigration regime is operated by some of the countries is not coherent with the premise of protecting all children on the territory. The study gathered evidence to affirm that non-national children are disproportionately at risk of not fully exercising their rights. To varying degrees in the four countries, they are facing obstacles in accessing basic services and are at risk of marginalisation and exclusion, as well as infringements against their rights and violations. This applies especially to undocumented children but also to migrant children from within the EU, third country nationals and asylum seekers. All of these instances are considered to increase children's vulnerability to exploitation and trafficking.



PROMOTING EFFICIENCY BY INVESTING IN PREVENTION

The study noted that child protection service providers in some of the countries are concerned about the impact of budgetary cuts on their capacity to offer a comprehensive package of prevention and protection services. Where resources are scarce, social workers and child protection professionals may have to increasingly focus on responding to the more severe cases of violence and high levels of distress. Prevention of violence is however considered to be more effective and more cost-efficient than responding to cases where children have already been exposed to violence, abuse or neglect and need extensive treatment. This limitation might lead child protection services into an ‘inefficiency trap’ where the services struggle to respond to cases of violence that they failed to prevent or identify early on. This has implications not only for the immediate safety, health and well-being of the children concerned but likely also for their longer-term development and the society at large.

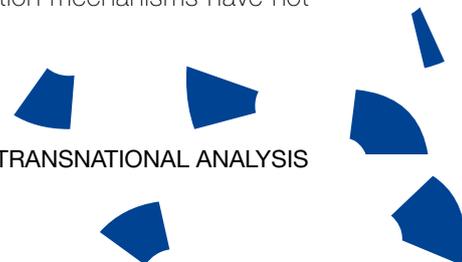
INTEGRATING NATIONAL CHILD PROTECTION SYSTEMS INTO BROADER STRATEGIES FOR THE IMPLEMENTATION OF THE CONVENTION

National child protection systems consist not only of the normative framework provided by the national laws and policies. They also comprise all the measures and structures that are put in place in order to implement these laws and policies into child rights practice, to monitor and evaluate the impact on children and the societies, and to hold public institutions and their private partners accountable. National child protection systems need to relate to and coordinate effectively with policy sectors that are not directly involved in protection but are relevant for the implementation of the Convention on the Rights of the Child more broadly. By reviewing how the public administrations address these issues, the IMPACT study identified significant shortcomings.

The public administrations have not yet succeeded to put in place a structural framework in which national child protection systems could operate effectively. Comprehensive coordination and strategic planning to integrate the sectoral policies into a consolidated strategy for the implementation of the Convention are not in place, have been suspended or are not fully operational. More attention needs to be given to strategic planning and coordination as a precondition for building effective systems, including in times of crisis.

The study revealed numerous structural issues that inhibit the effective operation of the public administrations. In some countries, the decentralisation of the public administrations leads to a high degree of fragmentation of institutional mandates. The devolution of competences to the regional and local levels poses challenges of ensuring comparable standards of implementation and ensuring the accountability of all actors involved. The status and quality of implementation is characterised by regional and local disparities. In the absence of a unified strategy for the cooperation with private service providers, there are instances of duplication and gaps in services, leaving some groups of children with little access to support. In consequence, the rights of the child are not safeguarded consistently throughout the countries and thus there are differential standards and possible cases of exclusion and discrimination.

In addition, limited dialogue, communication and consultation between the central, regional and local levels of the public administrations undermine the implementation process. Important experience, knowledge and recommendations available from local authorities and front-line staff are not being capitalised on in a systematic way to inspire the planning and reform process at the central levels. Policy planning is not informed by reliable and disaggregated data as data collection mechanisms have not yet been established consistently for key child rights indicators.



The study identified – to varying degrees in the four countries – many examples where policies were planned and implemented through ad hoc and project based initiatives. These are limited in time and scope and are not necessarily taken to scale even when they are considered valuable and successful. Whereas individual projects are useful to respond to changing situations and emerging trends, the lessons learned and results of project evaluations should be considered for longer-term and sustainable strategies for policy planning and implementation.

“We must evaluate if measures have an impact. Without it, it is useless. And evaluation is always left aside, always!” (Portugal)³⁷⁶

Although budgetary concerns are hindering the effective implementation of the Convention, the study revealed that structural challenges in the way that the public administrations work undermine the results and benefits for children and the society. Making the public administrations work more effectively constitutes a human rights imperative, particularly so in times of economic and financial crisis.

The challenges of implementation presented in this report are commonly known. As evidenced by the interviews conducted for this study and relevant reports, officials and professionals are aware that child rights policy is not being implemented effectively. The national IMPACT reports identified individual initiatives to promote reforms, but a comprehensive strategy for change was not identified in any of the four countries.

“There is an administrative inability to implement the existing [policies]... I am saying this in relation to the reports of the last 2-3 years in which there are no references ... to deficiencies in the legislation. Their main observation is the lack of improvement and the inability of the administration to implement the legislation effectively.” (Cyprus)³⁷⁷

“... all these Conventions ... are not ... applied in practice. If only these could be at least applied on a first level. ... Since the legislation is not applied, it is not effective.” (Greece)³⁷⁸

“... the Italian legislation is good in terms of compliance, but there are serious problems in relation to its implementation.” (Italy)³⁷⁹

“The main point is that we are advanced, quite advanced with regard to the description of children’s rights ... but this is not reflected in the concrete organization of services that should be able to allow the implementation of rights. This is a general gap, ... but it is really consistent in some fields.” (Italy)³⁸⁰

“We have really beautiful laws! ... I don’t think we lack legislation. I think we lack implementation ... There is a huge, huge gap between the theoretical plan and the practical plan.” (Portugal)³⁸¹

³⁷⁶ Key informant interview GOV, PT05. Chapter 4.Protection.3.

³⁷⁷ Key informant interview ORG, CY03. Cited in: IMPACT National Report Cyprus, Chapter 4.1.3.

³⁷⁸ Key informant interview GOV, GR05. Cited in: IMPACT National Report Greece, Chapter 2.

³⁷⁹ Key informant interview GOV, IT 08. Cited in: IMPACT National Report Italy, Chapter 2.

³⁸⁰ Key informant interview ORG, IT 03. Cited in: IMPACT National Report Italy, Chapter 2.

³⁸¹ Key informant interview GOV, PT05. Cited in: IMPACT National Report Portugal, Chapter 4.Protection.1



The study concludes that it is an urgent priority to strengthen the capability of the national administrations to implement the existing laws and policies in a way that is inclusive, appropriate and effective. It recommends that more attention be given to policy coherence across all sectors of the public administration and to ensure that not only the laws and policies are compliant with the Convention but also the way they are applied in practice.

THE PROGRAMMATIC CHARACTER OF THE CRC

The IMPACT findings suggest that the rights of the child are being addressed strongly through a legalistic and administrative approach. The Convention on the Rights of the Child is however far more than a legal document. The Convention has a programmatic character that expands the notion of rights to a more holistic understanding of the person. It promotes an understanding of the child not only as a vulnerable person in need of protection, but as a rights holder and citizen who contributes to the society with his or her evolving capacities. It guides an assessment of the rights and needs of the child across all aspects of the child's person and development. It relates to social and economic aspects, health and education, the development of skills and capacities, and the child's socio-political participation.³⁸² When the rights afforded under the Convention are understood not only article by article but also holistically, it can guide policy makers and practitioners in developing more systemic approaches to child rights policy planning and implementation. The evidence collected by IMPACT suggests that this understanding and vision might get lost in implementation.

The Convention offers guidance for policy makers across all sectors concerned with responses to child exploitation and trafficking, including social welfare and child protection, law enforcement and the judiciary, labour, education, health, and immigration. A child rights-based and protection-oriented response is therefore not in conflict with a criminal justice or migration management response, but is cross-cutting and bears an inherent potential for integrating and reconciling these different political mandates and agendas.

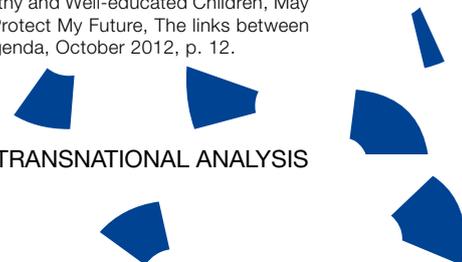
INVESTING IN CHILDREN IN TIMES OF CRISIS

The study noted the severe strain that the financial and economic crisis is placing on the national governments and the people. It identified examples of how children – individually or in groups – are particularly affected in their immediate well-being and by reduced opportunities to enjoy their rights to grow and to develop in a stable, healthy and safe environment. Patterns of inequality and exclusion are affecting some groups of children more than others. Experiences from around the world demonstrate that poverty, low educational achievements, high levels of inequality, weak governance and a generally low level of implementation of child rights standards cause immense social costs as they might become transgenerational in nature and reduce the social, economic and human capital of a nation.³⁸³ All these challenges create a fertile environment for the continued exploitation and trafficking of children.

The European Commission recognised that “the financial and economic crisis is having a serious impact on children and families, with a rise in the proportion of those living in poverty and social exclusion in a number of countries”. It noted further that “budget consolidation efforts due to growing

³⁸² Costella, Pippo (1998), *Diritti dell'infanzia e processi di sviluppo*, Note per la formulazione di una strategia di cooperazione internazionale fondata sui diritti dell'infanzia, Arci Cultura e Sviluppo, Roma, pp. 3-4.

³⁸³ United Nations Children's Fund (2013), *Sustainable Development Starts and Ends With Safe, Healthy and Well-educated Children*, May 2013, p. 9. Better Care Network, Consortium for Street Children, Family for Every Child et al. (2012), *Protect My Future, The links between child protection and equity, Addressing inequality and child protection in the post 2015 development agenda*, October 2012, p. 12.



fiscal constraints in a number of countries present significant challenges to ensure that social policies remain adequate and effective in the short as well as the long run”.³⁸⁴ Preventing the transmission of disadvantage across generations is considered a crucial investment in Europe’s future. It constitutes also as a direct contribution to the ‘Europe 2020 Strategy for smart, sustainable and inclusive growth’, with long-term benefits for children, the economy and society as a whole.³⁸⁵

The examples from the four IMPACT countries discussed in this report, demonstrate how the financial and economic crisis has led to reduced budget allocation to social policies, including the child protection sector. Considering the strategic importance of investing in children, the decision to reduce public spending specifically in these sectors is barely forward-looking. The Committee on the Rights of the Child emphasises that investing in children is “a concept now widely accepted as the best guarantee for achieving equitable and sustainable human development, and a fundamental requirement for social and economic priorities of any government. In this connection, the Committee also underlines the interdependence and indivisibility of all human rights, and that enjoyment of economic, social and cultural rights is inextricably intertwined with enjoyment of civil and political rights”.³⁸⁶ There is thus far little evidence that the resources that children – nationals and non-nationals – offer for the society are being understood and capitalised on.

The Council of Europe Parliamentary Assembly recommended to consider migration as an opportunity for countries to maximise the benefits that migrants can bring. It recognised migration as a means of offsetting population decline – which is relevant particularly in Italy and Portugal – and a source of cultural enrichment to host societies while contributing to intercultural and inter-faith dialogue.³⁸⁷

The financial costs of the reception of unaccompanied children are significant in each of the countries. The budget allocation for this purpose is however not considered from an investment perspective. Costly institutional forms of care are prioritised over the more cost-efficient forms such as family-based foster care. What is visible from the national IMPACT reports is that there appears to be a trend, in some countries and contexts, of administering children’s cases until they turn 18 years old. At that moment, much of the support is stopped, although providing continued support and a residence permit until the child has finished higher education or vocational training would maximise the benefit of the investment, for the young adult, the receiving society and likely also the community and society of origin. The know-how, skills and entrepreneurship of young migrants in the diaspora and upon return to the country of origin may offer important opportunities for the receiving and the origin communities.

“There is no longer an investment in the future. We are struggling, and sometimes we actually achieve something good ... but it is extremely difficult and tiring and also time-consuming, because... there is no governance of the system “ (Italy)³⁸⁸

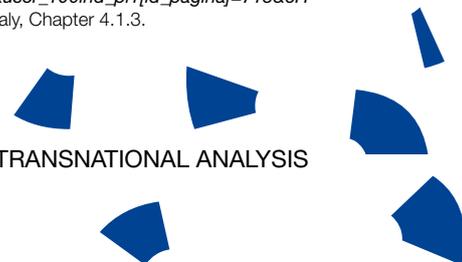
³⁸⁴ European Commission (2013), Commission Recommendation of 20.2.2013, Investing in Children: Breaking the cycle of disadvantage, Brussels, 20.2.2013, C(2013) 778 final, p. 3.

³⁸⁵ European Commission (2013), Commission Recommendation of 20.2.2013, Investing in Children: Breaking the cycle of disadvantage, Brussels, 20.2.2013, C(2013) 778 final, p. 2.

³⁸⁶ Committee on the Rights of the Child (2007), Day of General Discussion on “Resources for the Rights of the Child – Responsibilities of States”, 46th Session, 21 September 2007, p. 8.

³⁸⁷ Council of Europe Parliamentary Assembly, Migrants Bring Real Benefits to European Society, 20 November 2013, available at: <http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=4749&lang=2&cat=134> (accessed December 2013). Portugal: Statistics Portugal (Instituto Nacional de Estatística, INE), available at: [http://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_indicadores&indOcorrCod=0005539&contexto=bd&selTab=tab2. Istat \(2013\), Noi Italia 2013, available at: http://noi-italia2013en.istat.it/index.php?id=55&user_100ind_pi1\[id_pagina\]=713&chash=e8ec8a28a0a4c7c218560820bc3baed5](http://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_indicadores&indOcorrCod=0005539&contexto=bd&selTab=tab2. Istat (2013), Noi Italia 2013, available at: http://noi-italia2013en.istat.it/index.php?id=55&user_100ind_pi1[id_pagina]=713&chash=e8ec8a28a0a4c7c218560820bc3baed5) (accessed October 2013). Cited in: IMPACT National Report Italy, Chapter 4.1.3.

³⁸⁸ Key informant interview MUN, IT 03. Cited in: IMPACT National Report Italy, Chapter 4.1.1.

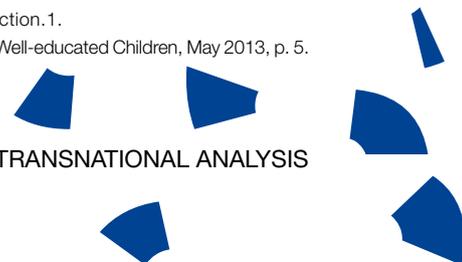


**“There is still a lack of prioritisation of children’s issues and children’s rights in the political agenda so that we can invest deeply in these matters.”
(Portugal)³⁸⁹**

Investments can only take effect if political commitments are effectively translated into practice and when successful initiatives are taken to scale country-wide. Investments should specifically target the most vulnerable in order to reduce inequalities. Investing in the health, nutrition, education and protection of children is a meaningful contribution to sustained economic and social development that will show lifelong and transgenerational results.³⁹⁰

³⁸⁹ Key informant interview MUN, PT08. Cited in: IMPACT National Report Portugal, Chapter 4.Protection.1.

³⁹⁰ United Nations Children’s Fund (2013), Sustainable Development Starts and Ends With Safe, Healthy and Well-educated Children, May 2013, p. 5.



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RECOMMENDATIONS³⁹¹

- National child protection systems hold the primary responsibility for assisting child victims of exploitation and trafficking and children at risk. Their mandates are however not broad enough to develop comprehensive strategies for primary prevention and empowerment. National child protection systems should therefore be effectively integrated into **a systemic approach for the implementation of the Convention**. A systemic approach would adopt a holistic perspective of children and value the right of the child to be safe in relation to all the other human rights of the child, considering children as citizens with the right to develop and apply their capacities and potentials.
- **The institutional framework for the implementation of the Convention should be developed and strengthened further.** Effective cooperation and coordination across all sectors of the Government are needed to ensure stronger coherence of policies, from planning and review through to implementation. The assignment of leading roles on specific child rights themes to relevant ministries and departments is as important as institutionalising their cooperation with other ministries and departments.
- The **capability of public administrations to implement child rights policy into practice should be strengthened and subjected to monitoring.** There is a need to measure the capability of the public administrations to implement national laws and policies into practice and to monitor progress made in this regard. Progress should be measured by an aggregate of indicators comprising child rights indicators, indicators related to the general measures for the implementation of the CRC³⁹² and indicators that measure the quality of the outcomes, including by assessing to which degree laws, policies and practice are inclusive, appropriate, effective, compliant and coherent.
- A **unified and comprehensive law on children** should be developed in those countries characterised by a highly fragmented legal system. The law should integrate and consolidate existing laws on children and be equipped with clear regulations, guidelines and procedures for its implementation.
- **National child protection systems need to be strengthened** in order to operate more effectively. The central role of national child protection systems for investing in the safety and development of children should be recognised by adequate budget allocation.
- There is a need to develop, or strengthen existing **mechanisms for the identification and referral of children at risk and child victims**, with clear lines of reporting and institutional responsibilities and guided primarily by the needs and rights of the individual child, regardless of the child's status. It will be important to connect and integrate existing referral mechanisms for different groups of children with the objective of setting up a unified referral me-

³⁹¹ More comprehensive and country-specific recommendations are available from the national IMPACT reports.

³⁹² See: United Nations Committee on the Rights of the Child (2003), General Comment No.5, General Measures of Implementation for the Convention on the Rights of the Child, CRC/GC/2003/5, 3 October 2003.

RECOMMENDATIONS

chanism that gives due account to the diversity of children and their specific, individual needs.

- There is a need for **more effective monitoring mechanisms** that embrace the local, regional and central authorities, facilitate the communication and exchange between them and **promote accountability of the public and private actors** involved at all levels. In particular, there is a need to **monitor if and how quality standards are being observed at the local level**, the performance of professionals working with and for children and service providers. Effective monitoring is not only a human rights imperative to ensure the best interests of the child are being promoted and safeguarded, it is also a necessity to ensure that public funds are spent effectively and in an appropriate way, and that the relevant national laws and policies are applied and adhered to at the local level, in each case.
- **A reporting and complaints mechanism should be available and accessible for all children, including migrants and asylum seekers**, as well as for officials and professionals. Findings resulting from the reporting and complaints mechanism should be used effectively to redress gaps and shortcomings in the system, to enhance the quality and coherence of services, to promote accountability and reform.
- Officials and professionals working with and for children at the local level should have **access to qualified and specialised expertise and support**, locally or from the regional or central level. Technical assistance and expertise shall support them in responding to complex child protection cases, including cases of unaccompanied non-national children, child victims of exploitation or trafficking. Specialised expertise can be essential to support the mainstream child protection services, at the local level and in small municipalities, to handle unusual and complex cases where staff need to be aware of specific legal, administrative and judicial matters.
- **Standard procedures should be developed for the assessment and determination of the best interests of the child** in all relevant contexts. They should give due account to the views of the child and be based on the consultation with all relevant actors involved in the child's case. The process and outcomes of a best interests determination should always be documented and explained in writing, and give due consideration to assessing a child's psycho-social situation, including past and present experiences, experiences of violence, exploitation and abuse, and the child's views and aspirations for the future. In addition to the best interests of individual children, the principle is relevant also collectively and should inform balanced and sensible policy making in accordance with the standards afforded under the Convention.
- In some of the countries, **clear guidance and tools for hearing children in judicial and administrative proceedings** have not yet been developed. For non-national children and children belonging to national or ethnic minorities, the right to be heard may depend significantly on the availability of quality interpretation and cultural mediation that is confidential and trusted. A child's right to be heard can only be meaningfully translated into practice when the child has access to information in a language that he or she can understand. It would be important to scale up the measures and formal procedures to realise this right in all four countries, individually as well as collectively in the context of socio-political participation of children.
- In providing assistance and care for children, more consistent attention should be given to **developing life projects and individual care plans**, including for unaccompanied children and child victims of trafficking. These should be based on an individual case and needs assessment. They should be developed and periodically reviewed in close consultation with the child and all



RECOMMENDATIONS

relevant actors involved in the child's case. Working more strongly with life projects, including for unaccompanied children and child victims of trafficking, will contribute to rendering services more appropriate, more targeted and therefore also more effective. The Council of Europe has issued important guidance on life projects that may inform national developments in this regard.

- Guardians or representatives hold a key function in representing the views and promoting the best interests of unaccompanied children in specific situations, including asylum seeking children and victims of trafficking. **More consistent regulations of guardianship and legal representation** for all children deprived of parental care and children at risk of violence should be developed. A guardian should be appointed in a timely manner. The provisions on guardianship should be integrated into a 'guardianship system' that ensures training, supervision, monitoring and accountability of each guardian, according to clearly defined quality standards, working methods and ethics. Children under guardianship as well as guardians themselves should be empowered to access an effective complaints mechanism in cases where the child's rights are not being safeguarded.
- **Policy planning and review should be more consistently informed by data, analysis and knowledge.** To this end, it will be important to develop or strengthen mechanisms for the collection and analysis of qualitative and quantitative, disaggregated data. There is a need for standardised mechanisms for conducting public impact assessments and evaluations. The impact of national laws, policies and practice on the rights and well-being of children needs to be assessed in a consistent and regular way, ensuring that the results and findings emerging from such assessments and evaluations are debated publicly and that they guide and inspire reform processes. Such assessments and evaluations should be conducted in a participatory and consultative way, engaging all levels of the administration, hearing the experience, views and recommendations of front-line staff, as well as listening to the views and recommendations of children, including the most marginalised groups.
- **Programmes that have proven effective within a specific sector or at the local level should be sustained for a longer-term duration, combined with process and impact evaluation.** Those that are considered successful on the basis of evaluations should be considered for country-wide implementation.
- All countries have national human rights structures mandated to monitor the implementation of the Convention. The impact of the monitoring function carried out by these institutions could be strengthened further by ensuring that the recommendations they issue are duly followed-up upon, including by **institutionalising a public reporting and debate on how the recommendations issued by national human rights structures are being addressed.**
- The need for **more consistent training for officials and professionals** working with and for children was raised in each country and is considered relevant – to varying degrees – throughout the different sectors under study. Training on child rights should be mainstreamed into academic and professional training courses as well as on-the-job training. Training is required on specific procedures, working methods and tools as well as on international and regional standards, including the UN Convention on the Rights of the Child and its Optional Protocols. Knowledge and understanding of child rights and the Convention are essential as they guide not only a more holistic understanding of childhood but also the interpretation of laws in accordance with the Convention where laws and policies leave room for interpretation and discretion for the officials and professionals applying them in practice.



GLOSSARY AND ACRONYMS

GLOSSARY OF KEY TERMS

CHILD

A 'child' is understood as every human being below the age of 18 years, according to the UN Convention on the Rights of the Child, Article 1.

CHILD PROTECTION

'Child protection' is commonly understood to refer to the protection of children from all forms of violence, exploitation, abuse and neglect, in the home, in institutions and in the context of formal or informal procedures, in line with CRC Article 19.

Some countries use a different terminology to refer to this concept, such as 'child welfare', or consider child protection to be integrated into 'social welfare' or 'social affairs'.

CHILD PROTECTION SYSTEM

There is no unified international definition yet of a 'child protection system'. In IMPACT the term is used in orientation at the definition provided by UNICEF.

UNICEF defines a 'child protection system' as "the set of laws, policies, regulations and services needed across all social sectors – especially social welfare, education, health, security and justice – to support prevention and response to protection-related risks. These systems are part of social protection, and extend beyond it. At the level of prevention, their aim includes supporting and strengthening families to reduce social exclusion, and to lower the risk of separation, violence and exploitation. Responsibilities are often spread across government agencies, with services delivered by local authorities, non-State providers, and community groups, making coordination between sectors and levels, including routine referral systems, a necessary component of effective child protection systems."³⁹³

CHILD RIGHTS POLICY

'Child rights policy' is understood to refer to policies related to the incorporation and implementation of the UN Convention on the Rights of the Child and other relevant international and regional child rights standards.

³⁹³ United Nations Economic and Social Council (2008), UNICEF Child Protection Strategy, E/ICEF/2008/5/Rev.1, par. 12-13.

CHILD TRAFFICKING

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime, defines 'trafficking in human beings' in Article 3 as follows:

"Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

"Child" shall mean any person under eighteen years of age.³⁹⁴

CHILD VULNERABILITY TO EXPLOITATION AND TRAFFICKING, INCLUDING STRUCTURAL VULNERABILITY

The term vulnerability derives from the Latin term 'vulnus', which has the meaning of 'wound' or 'lesion', and to which the suffix '-bilis' is added to designate a meaning of 'potential', 'capacity' or 'ability'. In this sense, the term 'vulnerability' could imply a twofold meaning: the exposure to a potential risk or danger that could generate harm combined with the capacity of a person – or by extension of a certain context – to manifest resources and express resilience in response to it.³⁹⁵ For the purpose of the IMPACT study, child vulnerability to exploitation and trafficking is understood as a multi-sectoral, ecological and rights-based concept. It refers to the limited chances of a child to fully exercise his or her rights as afforded under the Convention on the Rights of the Child. Vulnerability depends on the number and severity of infringements or violations that a child is or may be exposed to (the risk) as well as the child's resilience. Risk and resilience are understood according to an ecological model. They interact at multiple levels and are accumulating: personal risk and resilience are closely intertwined with risk and resilience deriving from relationships, socio-political systems and the environment. Child vulnerability can be caused or exacerbated when the capability of the public administration to implement child rights standards is weak and when it does not succeed to safeguard the human rights of the child in practice. This is understood as structural vulnerability. Structural vulnerability is related to state structures, action or inaction, and can result in the violation of the rights of the child.³⁹⁶

394 United Nations General Assembly, Resolution Adopted by the General Assembly, 55/25, United Nations Convention against Transnational Organised Crime, A/RES/55/25, Fifty-fifth Session, 8 January 2001, available at: http://www.unodc.org/pdf/crime/a_res_55/res5525e.pdf (accessed September 2013), pp. 32-33.

395 Dignitas (2011), *Manuale Operativo per Ridurre la Vulnerabilità e Promuovere le Risorse nel Sistema Asilo*, Defence for Children. See also: Cyrulnik, B. (2009), *Autobiografia di uno spaventapasseri, Strategie per superare le esperienze traumatiche*, Milano, Raffaello Cortina. Flach, F. (1990), *The resilience hypothesis and post-traumatic stress disorder*, Wolfe, M.E. and A.D. Mosnaim (eds.), *Post-traumatic Stress Disorder: Etiology, phenomenology and treatment*, Washington- DC, American Psychiatric Press.

396 See Chapter 2.b. Adapted from the definition of vulnerability presented in: Wenke, Daja(2011), *Vulnerable Children in Switzerland, Safeguarding the Rights of Every Child, A Discussion of a Systemic Approach to the Implementation of the Convention on the Rights of the Child*, Swiss Committee for UNICEF.

ACRONYMS

CARDET	Centre for the Advancement of Research & Development in Educational Technology (Cyprus)
CESIS	Centre for Social Intervention Studies (Portugal)
CRC	Convention on the Rights of the Child
DCI	Defence for Children International – Italy
EC	European Commission
EU	European Union
FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
GATE	Guardians Against Child Trafficking and Exploitation
GRETA	Group of Experts on Action against Trafficking in Human Beings of the Council of Europe
ILO	International Labour Organisation
IMPACT	Improving Monitoring and Protection Systems Against Child Trafficking and Exploitation
IOM	International Organisation for Migration
KMOP	Family and Childcare Centre (Greece)
NGO	Non-governmental Organisation
SPRAR	Central Service of the System of Protection for Asylum-Seekers and Refugees (Italy)
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children’s Fund
UNODC	United Nations Office on Drug and Crime
WHO	World Health Organisation

BB

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