

REPORT BY THE WORKING GROUP ON CHILD TRAFFICKING UNDER THE TASK FORCE ON HUMAN TRAFFICKING

“Prevention of trafficking in children and protection of the victims of child trafficking“

INTRODUCTION

According to estimations by the United Nation’s Children’s Fund (UNICEF) 1.2 million children are victims of trafficking in children¹ worldwide.

Austria is affected by child trafficking both as a transit and a destination country. Because of its clandestine nature it is very difficult to determine exact figures on the actual scope of child trafficking. Moreover, it is sometimes impossible to differentiate clearly between unaccompanied refugee minors (URMs) and/or unaccompanied alien minors, minors who entered a country illegally (with human smugglers) and victims of child trafficking.

Cases in which children are clearly identified as victims of trafficking usually involve children from South East Europe (*inter alia* from Bulgaria, Romania, Moldova, Serbia and Slovakia) but also from Africa and Latin America who are sold by their parents – mostly under false pretenses – to human traffickers. These abuse and exploit minors/children under the age (the age of criminal responsibility in Austria is 14 years) and young persons/children of age (14 to 18 years) and force them to engage in various activities in Austria, including begging, theft and pickpocketing, prostitution and other types of forced labour or make a profit in adoptions trafficking or marriage brokerage of minors.

Poverty is considered the major root cause of trafficking in children. Children are particularly at risk of being sold or exploited when the level of formal education is low, and violence as well as addictive behaviour in the family add to the lack of prospects offered by the social environment. In order to be able to give more detailed consideration to the complex topic of child trafficking, the Task Force on Human Trafficking suggested that a separate working group on child trafficking be established. Under the National Action Plan Against Human Trafficking (item 1.5.) it was subsequently decided to set up relevant working groups on demand, such as the Working Group on Child Trafficking.

As child trafficking is only a facet of human trafficking, the other relevant measures included in the National Action Plan Against Human Trafficking are also important for combating trafficking in children. An overview of the measures taken and activities to be launched by Austria in the fight against human trafficking is provided by the First Austrian Report on Combating Human Trafficking (First Austrian Report covering the period from March 2007 to March 2008), which

¹ In accordance with the UN Convention on the Rights of the Child the term *child* means every human being under eighteen years of age.

Note on terminology: For the purposes of the present text, the term “*victim of trafficking in children*“ shall mean young persons who are victims in a concrete context, without denying their self competence and resources. The term “*Betroffene von Kinderhandel*“ (*affected by trafficking in children*) frequently used in German is too vague in this context, since it includes all those involved.

was prepared by the Austrian Federal Ministry For European and International Affairs in accordance with item 7.1 of the National Action Plan Against Human Trafficking.

Mandate of the Working Group

In line with the National Action Plan Against Human Trafficking the mandate of the Working Group on Child Trafficking covers the following tasks: discussing developments, elaborating and preparing solutions, and engaging in monitoring activities in order to make sure that the planned activities are implemented in a results-oriented and sustainable manner.

Prevention and protection of victims represent central topics for which proposals for concrete actions had to be prepared. Under the National Action Plan Against Human Trafficking the following items represented aspects for consideration within this context:

1. Prevention: Awareness building and sensitising of law enforcement and border management officers in the field of human trafficking (item 2.5)
2. Protection of victims: Reviewing the existing witness protection programmes of the Federal Ministry of the Interior with a particular view to the topic of human trafficking and reviewing the implementation and enforcement of specific measures relating to trafficking in children (item 3.5)
3. Reviewing the need to establish a nation-wide victim protection centre for unaccompanied minors/young persons (item 3.7)
4. Preparation of a coordinated support programme for victims of human trafficking and child trafficking in particular (item 3.10)
5. Specific data collection (item 7.2)

Participants:

Representatives of the following institutions participate in the Working Group:

Federal Ministry of Health, Family and Youth (leader of the Working Group), Federal Ministry for European and International Affairs, Federal Ministry of the Interior, Federal Ministry of Justice and the governments of all nine Austrian Federal Provinces.

The Austrian National Action Plan Against Human Trafficking welcomes the involvement and promotion of NGOs active in this field and appreciates their inclusion in connection with the implementation of individual measures set out in the Action Plan. Hence representatives of ECPAT-AUSTRIA (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes), LEFÖ-IBF (Intervention Centre for Migrant Women Affected by Human Trafficking) and the BIM (Ludwig Boltzmann Institute of Human Rights) participate in the Working Group on Child Trafficking .

The “Recommendations for the Treatment of Trafficked and Unaccompanied Children“ (*Empfehlungen im Umgang mit Opfern des Kinderhandels und unbegleiteten Kindern*) prepared jointly by UNICEF Austria, IOM (International Organisation for Migration) Austria,

FICE (Children's Rights Office Austria of the International Federation of Educative Communities), ECPAT Austria, LEFÖ-IBF, BIM and Norbert Ceipek were adopted as a discussion paper by the Working Group.

Legal Basis

Austria is a state party to all relevant legal instruments against human trafficking. Obligations to protect children arise in particular from the Convention on the Rights of the Child (1989)² and the Optional Protocol on the Rights of the Child on the sale of children, child prostitution and child pornography (2000)³, the United Nations Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime (2000)⁴, the Council of Europe Convention on Action against Trafficking in Human Beings (2005)⁵, and of the relevant EU instruments in the fields of human trafficking and sexual exploitation of children.

The Criminal Law Amendment Act 2004 (*Strafrechtsänderungsgesetz* 2004) implemented the obligations on the prevention of and fight against human trafficking including the measures for the protection of victims under the agreements and conventions at the level of the United Nations, the European Union and the Council of Europe (in particular Criminal Code par. 104a).

The Austrian legislation is in principle suited to protect children from the multi-faceted phenomena of child trafficking.

Currently, however, there is no uniform nationwide approach applicable on the entire Austrian territory regarding a national coordination or care and support concept for victims of child trafficking in accordance with international standards (see *NRM - National Referral Mechanisms, similar to OSCE/ODIHR, National Referral Mechanisms - Joining Efforts to Protect the Rights of Trafficked Persons, A Practical Handbook, 2004*).

Definition of trafficking in children

The definition of trafficking in human beings as set out in the *UN Protocol to prevent, suppress and punish trafficking in persons* from the year 2000 has become largely recognised. Within the meaning of this Protocol (also known as the Palermo Protocol, Art. 3)

a) *“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;*

² Federal Law Gazette No. 7/1993, entry into force in Austria: 5 September 1992.

³ Federal Law Gazette III No. 93/2004, entry into force in Austria: 6 June 2004.

⁴ Federal Law Gazette III No. 220/2005, entry into force in Austria: 15 October 2005.

⁵ Federal Law Gazette III No. 10/208, entry into force in Austria: 1 February 2008.

- b) 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;*
- c) 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;*
- d) “Child” shall mean any person under eighteen years of age.*

This definition is complemented by the Optional Protocol (also as of 2000) on the UN Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (Art. 2 a): Within the meaning of this Protocol

“Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;

and Art. 3, par. 1 sets out that “each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:

(a) In the context of sale of children as defined in article 2:

(i) Offering, delivering or accepting, by whatever means, a child for the purpose of:

- a. Sexual exploitation of the child;*
- b. Transfer of organs of the child for profit;*
- c. Engagement of the child in forced labour;*

(ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;

(b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;

(c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.

The Council of Europe Convention and the relevant EU legislation (for instance the EU Council Framework Decision on combating trafficking in human beings of 2002) also refer to these standards.

Moreover the Working Group on Child Trafficking also considers the characteristics and indicators set out in the *Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking*, a manual prepared by the Federal Ministry of the Interior and IOM, to be viable approaches for the work of law enforcement officers and youth welfare services. This manual also makes reference to a number of definitions that are used in several national and

international contexts (UN Convention on the Rights of the Child, UNHCR, EU, Palermo Protocol).

Consequently, the term “victims of child trafficking” covers all those minors who are exploited through: work under slave-like conditions, forced labour, domestic servitude, begging, sexual exploitation (including pornography and cyber pornography), theft and petty crimes, drug trafficking, trafficking in organs, illegal adoption and marriage brokering.

1. Prevention: Awareness-raising / Training and Further Education / PR Work

A high level of awareness and basic knowledge among the competent authorities, the public at large and the media in the countries of both origin, transit and destination are indispensable in preventing child trafficking on the one hand and protecting its victims on the other.

Knowledge and awareness of the phenomenon is necessary in order to be able to recognise and identify potential victims. To this end it is necessary for the authorities’ staffs to participate in the relevant training and further training seminars to learn more about typical features and behaviour patterns of both victims and perpetrators. The syllabus of such seminars should also contain sharing of information on the specific types of exploitation of children (see definition) in the assessment of which it is irrelevant whether the child consented or was merely accompanied by an adult. In connection with an intervention or action by the competent authorities the following aspects are particularly important:

- protection of the child against further exploitation and safeguarding the child’s best interests and well-being
- identification and legal authority of the respective accompanying person
- criminal prosecution of the responsible offenders, who often have a background in organised crime

1.1 Awareness-raising: training and further education

In order to be able to protect victims of trafficking in children it is necessary to be able to identify them as such.

The authorities’ representatives within the Working Group stated that it is often difficult to differentiate between unaccompanied refugee minors (applicants for asylum and refugees within the meaning of the Geneva Refugee Convention), unaccompanied children who entered a country with human smugglers and victims of trafficking in children.

In this spirit the primary task in terms of training and further education seminars consists in communicating a uniform definition. In its seminars the Federal Ministry of the Interior thus uses the manual entitled *Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking*, which it prepared jointly with the IOM.

In order to raise awareness among law enforcement officers (and particularly border management officers), the topic of trafficking in human being was included in the mandatory basic training seminars for all police officers.

The following in-service training seminars for multipliers were held by the Federal Ministry of the Interior and by ECPAT:

- During Austria's Presidency of the EU the Federal Ministry of the Interior and IOM held a three-day training workshop under an AGIS project (European Commission project to prevent violence) in March 2006 in which some 70 experts from 20 countries participated. The workshop's agenda focused on risk analysis, investigative methods, age determination and assistance to victims.
- The Federal Security Academy organises additional in-service training seminars to raise and promote awareness of law enforcement officers and multipliers using the manual as the basic training material.
- Police instructors who have specific training in combating human trafficking teach the topic of human trafficking as part of criminalistics in the basic training syllabus at all Austrian police training centres.
- In cooperation with the Ministry of the Interior, ECPAT Austria conducts a multi-stakeholder training seminar for practitioners. The two training seminars held to date (in December 2007/January 2008) focused mainly on law enforcement staff, employees at youth welfare organisations, women's shelters, refugee organisations, and similar bodies. Members of the Task Force on Human Trafficking and the Working Group on Child Trafficking promoted participation in this training seminar among their colleagues.

The concerns and topics dealt with by the Working Group on Child Trafficking were presented to the federal provinces' leading division executives concerned with youth welfare at a round-table discussion held twice a year with the youth welfare authorities (*Jugendwohlfahrtsträger*). The topics discussed included awareness-building, the data of youth welfare statistics, opinion-shaping on the potential need for a nationwide victim protection centre (Federal Ministry of Health, Family and Youth, 7 May 2008). As central multipliers the division executives will disseminate the information material prepared by the Working Group (checklist) in their offices.

In their meeting on 28 April, the Chairman of the Governors' Conference handed over to his fellow governors a letter on trafficking in children prepared by UNICEF⁶ and asked them to "pay special attention to this sometimes neglected problem". The political awareness of the Province Governors to this problem contributes substantially to sensitising the public at large and to the relevant PR activities.

The following implementation steps are recommended:

a) All relevant players (including, for instance, law enforcement, the public prosecutors, justice authorities, public and private youth welfare organisations, alien and asylum authorities, the health care sector, educational authorities, personnel seconded and serving abroad, NGOs) are sensitised in basic training and further training seminars on the topic of trafficking in human beings, particularly children.

⁶ The letter prepared by the participants of the Round Table on Trafficking in Children (Federal Ministry of the Interior, ECPAT, FICE, ICMPSD, IOM, LEFÖ_IBF, UNICEF and UNDOC) launched by UNICEF in 2007, outlines that trafficking in children is a nation-wide problem in Austria and therefore requires a nation-wide, coordinated response involving a nation-wide care and support concept and further outlines that the relevant authorities often lack awareness and the necessary knowledge that would enable identification of children affected by trafficking.

b) In all federal provinces an increasing number of staff employed by youth welfare authorities will receive specific training on the topic of trafficking in children thus increasing the level of information and knowledge on this issue among the relevant staff in order to raise awareness of this problem and prepare adequate means of responses and solutions.

c) Based on the comprehensive written material on the topic of trafficking in children (manual/training material) a concise information folder will be prepared. This folder includes basic information/indicators (a checklist) for all personnel employed in youth welfare, the police forces and the public prosecutor's department. It will be available at the relevant agencies and offices and aim at facilitating identification and assisting staff in taking the first essential steps.

1.2 Awareness-raising among the general public/PR activities

Awareness raising is the primary task in combating child trafficking. *"Our key partner in this endeavour is the media. We can improve outreach not by pressure and power, but through education and the promotion of human rights values and principles in all social strata.* (Eva Biaudet, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, press release of 26 October 2007)

A educational toolkit on the topic of "Human Rights and Trafficking in Women and Young People – the European dimension of a human rights violation"/ *Der Handel mit Frauen und jungen Menschen – Europäische Dimensionen einer Menschenrechtsverletzung* prepared by the Ludwig Boltzmann Institute of Human Rights, La Strada, the University of Padua and other partner organisations as a EU-DAPHNE project is offered and made available to schools by the Federal Ministry of Education, Art and Culture and retrievable at the website on children's rights in Austria at www.kinderrechte.gv.at or at the La Strada's website <http://www.lastradainternational.org/?main=documentation&document=1654> ("Human Rights and Trafficking in Women and Young People. An Educational Toolkit for Teachers and Students".

The Federal Ministry of the Interior – Federal Criminal Police Office has launched an information campaign on the topic of human smuggling to raise the general public's awareness on the topic of smuggling of children.

On the occasion of the EU Anti-Trafficking Day on 18 October 2007, the Federal Ministry for European and International Affairs organised and hosted an event on "Joining Forces Against Human Trafficking" (*Gemeinsam gegen Menschenhandel*) during which the competent departments drew public attention to this particularly grave violation of human rights.

On the www.kinderrechte.gv.at webpage a special section will be dedicated to trafficking in children, thus making available information on this topic to the public at large.

The following implementation steps are recommended:

All forms of trafficking in children have to be addressed within the framework of the relevant PR activities. It is therefore necessary to raise public awareness on child prostitution and beggars but also on exploitive labour, illegal activities, trafficking in organs, and illegal marriage brokering by organising *inter alia*:

- a) information events directed at representatives of the media
- b) information campaigns to raise awareness among the public at large
- c) information events at school and extra-curricula information events (in cooperation with children and youth organisations)
- d) awareness-raising directed specifically at the relevant target-group in order to reduce demand for victims of child trafficking (i.e., child labour, forced sexual services, adoption).

1.3 Prevention by information and strengthening awareness of children's rights

Strengthening the child's/young person's individual competence is a very important objective in the context of preventing sexual exploitation.

This is specifically supported by the ability to relate and communicate, which is taught in the subject of sexual education at schools. To this end a large amount of relevant information is already being made available including teaching material and brochures, which also inform of counselling, support and assistance facilities.

Moreover, all children will continue to be informed of their statutory right to protection from violence and exploitation. Information on and knowledge of the Convention on the Rights of the Child is to strengthen the position of children and enable them to exercise their rights. Activities and measures aimed at strengthening children's awareness of their rights include competitions at school, dissemination of information material, and advertising the existence of the children's rights portal.

1.4 Prevention by assistance and support in the countries of origin

Combating human trafficking is a top priority on the agenda of Austrian Development Cooperation. Alongside protection of victims and prosecution of offenders the Austrian Development Agency (ADA) focuses in its relevant activities on prevention. A number of projects (all based on the human rights approach) launched in South East Europe have been co-funded. These projects involve the preparation and implementation of programmes aimed at protecting children as well as building up capacities among public prosecutors and improving transnational police cooperation:

- Terre des Hommes "Transnational Action against Child Trafficking" (TACT III) (EUR 350,000): project aimed at combating the exploitation and abuse of children in Albania and protecting these children as well as reintegrating trafficked children. The interventions take place at community level in order to build up a functioning and sustainable child protection programme.
- Catholic Relief Services: (EUR 78,984): project aimed at offering training and income perspectives/opportunities to girls and young women in Bosnia & Herzegovina and Moldova and strengthening them to decide in favour of a life in safety and security.
- UNICEF: (EUR 350,000): project aimed at combating trafficking in women and girls in Albania. The project's goal is to guarantee the rights of trafficked women and girls as

well as groups at special risk to human trafficking (e.g. orphans) and to offer them access to prevention and protection facilities in Albania including the prospect of reintegration. These measures also contribute to establishing appropriate strategies within the child and family protection system in Albania.

- Project on police cooperation between Austria and a number of South East European countries to combat trafficking in human beings (EUR 1.9 million): training and capacity building.
- ORDSE: (EUR 39,000) programme for the protection of children and young persons in Moldova: training programme which aims *inter alia* at avoiding that young women are affected by human trafficking, particularly by offering income-generating prospects.
- Within the framework of EU-funded projects (AGIS, CARDS) the Ludwig Boltzmann Institute of Human Rights conducts projects in South East Europe (for instance in Croatia and Romania), which aim at strengthening national capabilities in fighting human trafficking and protecting victims including offering social support to children who have fallen victim to human trafficking.

The following implementation steps are considered useful:

- a) Continued funding of awareness-raising campaigns in the countries of origin by the Federal Government's Development Cooperation Programme with the support of the international community.
- b) Planning and implementing training seminars on measures to prevent trafficking in children directed at authorities and other persons involved in the countries of origin.
- c) Organisation of awareness raising campaigns in the countries of origin and specifically directed at particularly vulnerable groups, such as Roma and Sinti, by using and involving several media including, for instance, Roma radio broadcasting stations.

2. Victim protection in the context of law enforcement and criminal prosecution: Review of the existing victim protection programme of the Federal Ministry of the Interior with a particular view to the topic of human trafficking and review of the implementation of specific measures relating to trafficking in children (item 3.5)

The implementation of the witness protection programme in force was evaluated by the Task Force on Human Trafficking. The report prepared by this Task Force (Chapter 3.5) states that

“taking into account the specific problem of human trafficking, the current set of laws and legal provisions are deemed to be sufficient in order to guarantee the protection of witnesses who are eligible for inclusion in the witness protection programme. In addition, it is considered necessary that the Task Force on Human Trafficking concerns itself with the protection of victims who do not fulfil the necessary prerequisites for inclusion in the witness protection system or do not want to be included in it”.

Since it is impossible to draw a clear line between victim protection and witness protection when children are concerned, the interaction and cooperation between judicial authorities, police forces

and youth welfare authorities is to be reviewed. If a specific witness protection programme for children is prepared, youth welfare authorities institutions will be involved.

3. Review of the need to establish a nation-wide victims protection centre for unaccompanied minors. (item 3.7)

3.1 Analysis of the current situation

In order to be able to determine how many children in Austria have fallen victim to child trafficking; how they are being identified; how the individual authorities deal with the trafficked children; what care/support and assistance measures are applied; in which programmes they are included and by whom the relevant measures are funded; where problems lie and what is needed and required, all the federal provinces were asked to submit the relevant information. To date, the provinces of Lower Austria, Upper Austria, Salzburg, Styria, Tyrol, Vienna and Vorarlberg have submitted (written) statements that convey the following picture of the Austrian situation with respect to child trafficking:

Cases

Vienna: According to figures made available by the *Drehscheibe* (a centre operated by the City of Vienna/Vienna youth welfare authority for victims of child trafficking and unaccompanied alien minors. The institution is based on the Youth Welfare Act of 1990) the number of unaccompanied minors/children under age without fixed abode who were used for criminal activities in Vienna (mainly theft but also prostitution) before being apprehended by the police and subsequently harboured by the *Drehscheibe* amounted to 315 in 2004, 701 in 2005, 319 in 2006 and 72 in 2007. (According to the *Drehscheibe* this decline is *inter alia* attributable to the fact that the *Drehscheibe* and the Bulgarian authorities cooperate particularly well.) Some children were even admitted several times – frequently under new names and with altered appearance.

Lower Austria: Because of specific conduct and behaviour patterns displayed by minors accommodated at special refugee institutions (Care Centre East/Traiskirchen; *Betreuungsstelle Ost/Traiskirchen*), it is assumed that child trafficking could be involved in a number of cases in Lower Austria. To date, however, there has not been a single case in which it was possible to clearly determine that the child had been a victim of trafficking.

Upper Austria: The number of identified cases of unaccompanied refugee minors is on the decline in Upper Austria. It is assumed that minors avoid staying at refugee accommodations.

Styria: Not a single case of child trafficking has been reported to the Regional Police Command of Styria. The department for refugee matters at the Styrian Province Government is, however, aware of several cases every year in which forced marriage of female Islamic minors, particularly Chechen girls, might be involved. The number of unreported cases, however, is assumed to be higher, but as these cases occur within the immediate family and are not reported to the police, no further information is available.

Salzburg: There was one identified case of child trafficking in the Province of Salzburg in 2006.

Tyrol: The province reported cases of unaccompanied minors from North Africa, India, Romania and China, among other countries, where the involvement of child trafficking was suspected.

Vorarlberg: There was no case of child trafficking detected in Vorarlberg.

The provinces of Burgenland and Carinthia did not submit reports.

Identification

It is difficult to identify cases of child trafficking. As outlined above, it is not always possible to differentiate clearly between victims of child trafficking, unaccompanied minors seeking asylum and minors who entered the country illegally (with human smugglers).

One of the reasons is that these children and young persons are rarely willing to make more detailed statements about possible relationships of dependence or the specific circumstances of their presence.

Fear of immediate reprisals directed against themselves or their family members at home as well as general distrust of authorities are among the main underlying causes of their refusal to accept measures aimed at victim protection and to give evidence against child traffickers.

Moreover, police officers frequently detect victims of child trafficking initially as “offenders” of some kind. They are apprehended when stealing, pickpocketing or committing some other petty crime and usually do not act in a manner that one would typically associate with “victims”. In such cases the authorities should not rely on first impressions but give these cases deeper consideration to determine the underlying reasons for such behaviour and activities (coercive context).

Analyses in the federal provinces have shown that numerous minors who have applied for asylum and whose relevant procedures are still pending engage in contacts that are indicative of a relationship of dependence. Often bound in some kind of a “modern” form of servitude/bonded child labour, they are exploited in a wide variety of ways (begging, prostitution, labour [selling flowers and the like, domestic work, ...], crime [theft, drug trafficking]). Another form of dependence is reported mainly by the Federal Provinces of Lower Austria and Upper Austria, where refugee care and support institutions have identified cases that might involve child trafficking.

In addition, mostly girls from the former Yugoslavia (in the majority of cases from the Bosnian region) and from Chechnya come to Austria to be married to men who are usually from ethnic Roma groups (Lower Austria and Styria).

One unclear case of adoption that suggested child trafficking was also reported (from Lower Austria).

Metropolitan Vienna is particularly familiar with trafficked children who are sent into the streets to steal, beg and prostitute themselves. NGOs have reported such cases in other province capitals as well.

Tyrol does not consider identification to be the primary issue but rather first providing appropriate accommodation, support and care in the interests of child welfare. Employing the services provided by the Clearing House of *SOS Kinderdorf* (SOS Children's Villages) has proved very beneficial in providing primary care. Unaccompanied alien minors are accommodated there for up to two months. During this period questions relating to their status are clarified and it is determined what kind of support is needed. Then children are transferred to the institution in Tyrol that best meets their specific requirements. This procedure could in principle also be applied to victims of child trafficking, the only open issue being the funding – since the children affected do not (always) represent the target group for the provision of basic welfare support.

Upper Austria cooperates with the Care Centre East (*Betreuungsstelle Ost*) and the police forces; an institutionalised system of networking has already been launched.

Alongside detecting children as victims of child trafficking, the authorities attribute importance to identifying the individual. In this context the determination of the child's age is important for the purpose of protection, because child traffickers pretend that the trafficked children are either younger than they actually are to make it easier to use them for illegal activities (like theft and pickpocketing) or older than they are in order to be able to exploit them for the purposes of prostitution.

The following implementation steps are recommended:

a) In order to determine the concrete need for a nationwide victim protection institution, it is necessary to gather and analyse additional information on the relevant situation in the federal provinces (problem awareness, structures, etc.).

b) See considerations on item 7.2 (National Action Plan Against Human Trafficking)

Intercountry adoptions

Legal intercountry adoptions can, provided that they comply with the relevant technical standards and the principle of subsidiarity, represent a means of protecting children.

If the child's home country decides that an intercountry adoption represents an adequate opportunity to help a child then it is within the responsibility of the youth welfare authority to determine whether a family is eligible for an intercountry adoption and can offer the child optimal development opportunities.

Children have the right to a legal and transparent adoption procedure involving the highest level possible of documentation on their origin and background. This way the risk of children being abused for business interests and consequently falling victim to child trafficking is reduced.

In order to improve these procedures, standards for handling intercountry adoptions are currently being prepared by both the Contracting States and countries that are not parties to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (The Hague Convention).

Regulations on more effective verification procedures to determine the authenticity of the child's documents from his/her country of origin by a structured cooperation procedure between the embassies and the Federal Ministry of the Interior are important for the recognition of adoptions in Austria.

One case of an intercountry adoption where circumstances were detected which require further clarification in the child's home country was reported from Lower Austria. In response to this event, the Federal Ministry of Justice convened a working group involving all relevant central authorities under The Hague Convention and charged with preparing binding nationwide standards for the handling of intercountry adoptions from Contracting States and countries that are not parties to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (The Hague Convention).

Along with elaborating standards for adoption placement and the recognition of adoptions in Austria, particular attention is paid to assessing the process of the adoption procedure and the authenticity of documents (i.e., document security) in the children's home countries.

Under no circumstances shall the purpose of intercountry adoption be to fulfil the desire of people from industrialised countries to adopt a child, nor does not represent an adequate means of combating global poverty.

The following implementation steps are being recommended:

- a) To specify in concrete terms in the Federal Youth Welfare Act (*Bundes-Jugendwohlfahrtsgesetz, Bundes-JWG*) the tasks to be assumed by the youth welfare authority in the field of intercountry adoptions
- b) To effect cooperation among the competent ministries in order to screen intersecting issues and material relating to the Federal Ministry of Health, Family and Youth, Federal Ministry of Justice, Federal Ministry of the Interior, Federal Ministry for European and International Affairs, (and the Federal Ministry of Social Affairs and Consumer Protection) and to elaborate measures aimed at the best-possible protection of children from child trafficking.
- c) To analyse the need for a specific law on adoptions of children from abroad, regulating placement and support by state-certified associations and banning Internet and third country placements of children.
- d) To maintain a uniform nationwide system of statistical registration of all intercountry adoptions.

3.2 Protection/shelter and care facilities

The Federal Youth Welfare Act, which stipulates the principles and the relevant implementation acts adopted by the federal provinces, creates the legal basis for the care of unaccompanied alien minors. According to these laws the youth welfare authority has to undertake to provide for the necessary protective measures, including legal representation, provision of accommodation and food – i.e., taking over custody if there is a risk that a minor's well-being may be jeopardised, even

if a child is not habitually a resident of this federal province. This obligation is derived from The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoptions.

The basic welfare support system provides for a regulated, nation-wide care scheme in Austria for unaccompanied refugee minors (standards differ, however, substantially across the country).

The costs for the care and support of minors under the basic welfare support system are born jointly by the Federal Government and the individual province (6:4). The costs for unaccompanied alien minors that are not covered by the basic welfare support system are in general borne by the youth welfare authority, the federal province (co-funded by the municipalities) and/or the social welfare associations (Upper Austria).

Depending on the level to which they are affected and the perception of the problem, the federal provinces adopt different approaches towards dealing with the target group:

In the Federal Provinces of Lower Austria, Salzburg, Tyrol and Vienna, care and support of unaccompanied alien minors who are not covered by the basic welfare support system is provided by and in youth welfare facilities.

Lower Austria tries to differentiate according to the children's age and offer specific age-related care and support to unaccompanied alien minors. Alien minors of age are usually sent to special care facilities, established by the youth welfare authorities for this specific target group. The costs incurred are largely reimbursed by the basic welfare support system for aliens requiring assistance, shelter and protection.

Support and care to under age alien minors is usually provided for in youth welfare institutions where they are together with Austrian children. If the relevant costs exceed those for the provision of the basic welfare support system these will be borne by the Lower Austrian youth welfare authority.

If the Lower Austrian youth welfare authority is of the opinion that unaccompanied alien minors require support and care and they are not entitled to basic welfare support, the costs incurred for care and support are fully borne by the Lower Austrian youth welfare authority

In Upper Austria support and care to unaccompanied alien minors is provided by special institutions under the refugee support system.

In Tyrol unaccompanied alien minors support and care is provided under the basic welfare support system or by the youth welfare authority. Following the establishment of a special "Counselling and Coordination Unit for Unaccompanied Alien Minors" ("*Beratung und Koordination für unbegleitete minderjährige Fremde*") at the youth welfare department, all relevant information is bundled there and interventions are channelled through this unit. Protection is considered more important than the letter of the law. Precedence is given not to the reason why the child was admitted to youth welfare but rather to safeguarding the child's best interests and welfare. However, the problem this position entails is that it is impossible to detect perpetrators without police intervention and that children continue to remain caught in this vicious circle of crime if they run away from these institutions.

In Vienna, minors who are not resident in Vienna and are apprehended by the police because of stealing, pickpocketing or begging etc., are sent to *Drehscheibe*, a socio-pedagogic institution. *Drehscheibe* provides these children with accommodation, shelter, food and protection and tries to determine their identity and learn more about each child's individual personal story. If possible, they are returned to their country of origin, while safeguarding the best interests of the child.

Discussion: Is there a need for a nation-wide victim protection centre?

The importance of this topic was explicitly stressed in this discussion.

Vienna and Lower Austria voiced the following arguments in favour of establishing a nation-wide "victim protection/competence centre" for victims of child trafficking:

A nation-wide victim centre would enable efficient handling of all cases in Austria, saving resources by bundling competencies, reduce interpreting costs, and the like.

Moreover, accommodation in regular youth welfare facilities is costly and funds could be used more efficiently and target-oriented instead. (Victims of child trafficking require different care and support than the children usually in the care of Youth Welfare).

The guiding principle of youth welfare, according to which care and support should be provided as close as possible to the child's place of residence, does not apply to victims of child trafficking, since children often come to a place by chance and since contact with their reference person (child traffickers, humane smugglers) is not in the best interest of the child. The affected children's safety could be safeguarded more effectively if they were accommodated outside of the immediate vicinity of child traffickers in order to disrupt the vicious circle of crime.

The establishment of points of first contact (*Erstanlaufstellen*) in every or at least in some federal provinces (regional competence centres) is considered an alternative to a specialised central support and care facility (victim protection centre).

However, even if the regional competence centre approach is adopted, it is considered necessary to establish a specialised supra-regional facility to which victims can be referred for the purpose of voluntary return.

This model suggests the establishment of clear competences and responsibilities in the federal provinces and a uniform approach by all federal provinces (trafficking in children is a supra-regional problem) as well as good networking and cooperation among all federal provinces.

It is necessary for the staff at such support and care facilities to acquire specialised knowledge in the field of child trafficking.

As regards funding, models involving statements on coverage of costs (*Kostenübernahmeerklärungen*) applied in youth welfare or funding models applied to refugees are suggested as good approaches.

Moreover it is necessary to establish clear rules and regulations for the cooperation between police and youth welfare in order to be able to safeguard the child's best interests and welfare and at the same time disrupt the vicious circle of crime.

Issues/problems arising in connection with safeguarding the child's needs within the framework of victim protection:

- The following issues arose during the discussions held to date and require further clarification:
- What can be done to make sure that a minor's identity is more clearly determined?
(they often alter their statements regarding their name, age and country of origin as well as appearance)
- What can be done to determine a child's age more precisely?
- What can be done to get minors out of this system of violence?
- What can be done to adequately determine the desires and needs of the affected minor (particularly as regards the system of care and accommodation) – case studies, interviews, anonymous feedback, etc.
- What can be done to prevent the “disappearance” of affected minors from youth welfare institutions?
- Should this be prevented? What is the alternative?
- The question of whether a continued stay in Austria or an orderly return is more appropriate to safeguard the child's welfare and best interests has to be decided on a case by case basis. The fundamentals required for the adequate determination of this issue have to be created. In this connection account has to be taken of issues relating to a continued stay in Austria and the associated possibilities.
- The persons accompanying the child (child traffickers) are usually in possession of a written document enabling them to legally enter Austria legally with the minors. This document which only covers crossing the border into Austria is in some cases misinterpreted by the youth welfare institutions as a document through which child custody has been transferred to this person by the child's parents. What can be done to determine the accompanying person's legitimacy in a legally tenable manner?
- What can be done to identify illegal adoptions and produce evidence?

The following implementation steps are recommended:

- Continuation of the Working Group's relevant discussion with the aim of developing a concept for the systematic provision of care and support of children and adolescents who are victims of child trafficking in Austria. This involves a clear assignment of tasks and mechanisms for cooperation between government bodies and NGOs (the basis being the

National Referral Mechanism, mentioned above) by including all relevant players' expertise.

4. Preparation of a coordinated support programme for victims of human trafficking and particularly child trafficking (item 3.10)

As soon as the provision of initial care (*Erstversorgung*) to the affected child has been ensured, it is necessary to develop longer-term future prospects by actively involving the child and by determining his or her best interests. These measures may include the continued stay and integration in the receiving country, an onward journey to a third country or the voluntary return to the country of origin. In the latter case the return has to be preceded by comprehensive risk assessment in order to guarantee the best-possible reception by the child's family or the appropriate institutions and to ensure reintegration in the country of origin; the return has to be voluntary, documented, and coordinated between the relevant authorities protecting the affected child's data (IOM standards).

Approach taken by the *Drehscheibe*

An effort is made to return the child to the country of origin and reintegrate him or her as soon as possible. In this context the focus is on placing the children in special facilities in their home country under the protection of the national youth welfare authority. Over a period of six months the *Drehscheibe* requires the authorities of the country of origin to submit reports on the status of the child's reintegration. Naturally, the children are given the opportunity to get in touch with their parents.

The embassy of the country of origin is involved in the return and reintegration processes and represents an important link to that country's social facilities.

The *Drehscheibe* undertook to assist Romania and Bulgaria in particular in reintegrating "returned" minors. Staff was specifically trained for this purpose and thus far 14 crisis centres have been established in Romania and three in Bulgaria. As a result of the excellent cooperation between the *Drehscheibe* and the relevant ministries in Bulgaria and Romania the number of unaccompanied children who are cared for by the *Drehscheibe* has declined substantially.

What the Working Group considered problematic was the fact that the support programme for the return is organised with a strong focus on persons and countries. Since it depends to a high degree on the commitment and the networking of the partners involved, the programme's sustainability is not sufficiently ensured. It is therefore recommended to create structures that guarantee a return in which the child's best interests are safeguarded irrespective of the personal involvement and commitment of individual personalities.

As an institution that is active on an international level, IOM offers assistance in the field of identification of victims and voluntary return in the interest of safeguarding the child's welfare and best interests. Because IOM has established networks in 40 countries, it can examine every case in each of these countries of origin. In countries where IOM is not represented with a regional office, this kind of assistance can be provided by UNICEF, thus avoiding duplicate structures. As IOM works on a contractual basis in these 40 countries, the programme's sustainability is largely ensured.

The youth welfare authorities' attention is increasingly drawn to the fact that an institution like IOM exists and to the services (psycho-social counselling, monitoring) it offers. The checklist for youth welfare authorities will explicitly refer to this offer.

The following implementation steps are recommended:

- a) Clear agreements on monitoring following return to the country of origin
- b) Directives on adequate return approaches and procedures (determination of the child's best interests, voluntary nature of return, escort, etc.) prepared specifically for youth welfare authorities.

5. Specific data collection, statistics (item 7.2 NAP Against Human Trafficking)

Little data is available on the topic of trafficking in children. Surveys by the Task Force on Human Trafficking and the Working Group on Child Trafficking reveal that, with the exception of Vienna, hardly any cases of child trafficking have been brought to the attention of authorities.

Data collection is difficult for a number of reasons: firstly, competencies differ greatly from province to province and responsibilities are shared among different authorities. Secondly, the low level of awareness of the problem of child trafficking within each individual authority renders uniform communication and determination of facts difficult.

Potential victims of child trafficking are frequently treated as offenders (for instance by police forces when they apprehend minors for theft, drug trafficking or prostituting) or as illegal migrants and unaccompanied refugee minors. The measures taken depend on the individual approaches and the relevant resources.

The statistics currently used by the police forces do not identify victims of child trafficking clearly enough as such. Statistics on previous sentences take into account only the gravest offence for which a sentence was passed (thus far no sentence for human trafficking) and the records on regulatory offences describe these offences ("mother sitting with child begging") but do not give the relevant background information. Figures on illegal migration do not contain any information on the background, and data protection laws do not permit to the correlation of data from the districts/provinces statistics and their integration in a national database.

Even the data of the Vienna youth welfare authorities do not differentiate between victims of child trafficking and the exploitation of children by parents/relatives (i.e. mothers begging with children).

An external high-quality assessment of the situation is considered indispensable for the establishment of appropriate structures, and EU funding for such a project is being sought.

With a view to the collection of reliable and comparable data in all EU Member States, Austria supports all activities within the EU aimed at developing standards, guidelines and directives on data collection concerning human trafficking. To this end Austria coordinates a specific project involving five other EU Member States, Europol, ICMPD and IOM. The findings should be available in the spring of 2009.

The following implementation steps are recommended:

- a) Assessment: External high-quality assessment of the situation in order to gain information on the structures in place for victims of child trafficking in the federal provinces. EU funding (Daphne project) should be sought for this purpose.
- b) Monitoring: Regular monitoring of the development of the numbers of children affected and the situation of victims of child trafficking by improving data collection processes.
- c) Police statistics: The statistics prepared by the police forces should differentiate between victims of human trafficking and human smuggling whenever such cases are reported to the police.
- d) Conviction statistics: Key data contained in conviction statistics s to state that child trafficking was involved.
- e) Special nation-wide youth welfare statistics: Victims of child trafficking/dependence because of smuggling as well as all intercountry adoptions should be separately stated.

Catalogue of measures

The Working Group has suggested to the Federal Government that a systematic concept for the provision of adequate care and support of children and young persons as victims of child trafficking be prepared. What is important in this context is that cooperation systems between all relevant governmental and non-governmental players be established. A “National Referral Mechanism – NRM“ includes:

Sensitising/awareness raising: education and further education

- a) All relevant players (for instance law enforcement officers, public prosecutors, judicial authorities, public and private youth welfare authorities, alien and asylum authorities, the health care sector, personnel on assignment abroad, NGOs) are to be sensitised in their basic training or in further education seminars on human trafficking and child trafficking.
- b) A larger number of youth welfare staff are to acquire special training on the topic of child trafficking. These enhanced skills are considered a prerequisite for adequate problem awareness and the preparation of the relevant solutions and response strategies. The aspect of “voluntary return” (offered by IOM) is an integral element in this connection.
- c) Based on the comprehensive literature available (manual/handbook/training material) on the topic of child trafficking a concise information folder (checklist) will be prepared for all staff working with the youth welfare, police and prosecution authorities. It will be made available at the relevant divisions and offices and aimed at facilitating identification and supporting important initial steps.

Public Relations Work

All the phenomena of child trafficking have to be addressed in the public relations activities. Awareness has to be raised of child prostitutes and beggars as well as other forms of labour

exploitation, illegal activities, adoption trafficking, trafficking in organs and illegal marriage brokering.

- a) Information events for media representatives.
- b) Information campaigns to raise the general public's awareness.
- c) Information events at school and extra-curriculum information offer (in cooperation with child and youth organisations).
- d) Target-group specific awareness building, in order to discourage demand for victims of child trafficking (child labour, sexual exploitation, adoption).

Prevention by offering assistance in the countries of origin

- a) Continued funding of awareness-raising campaigns in the countries of origin through the Austrian Federal Government's Development Cooperation and supported by the international community.
- b) Planning and implementation of training and education seminars on measures to prevent trafficking in children to be organised for authorities and other involved persons in the countries of origin.
- c) Organisation awareness-raising campaigns in the countries of origin for particularly vulnerable groups, such as Roma and Sinti, involving radio broadcasting stations in the Roma communities.

Assessment of the status quo

In order to determine the concrete need for a nation-wide victim protection facility, it is necessary to collect data and additional information on the current situation (problem awareness, structures, ...) from the federal provinces (see section on awareness-raising/sensitising).

Intercountry adoptions

- a) Specifying the youth welfare authority's tasks in connection with intercountry adoptions in the Federal Youth Welfare Act (Bundes-JWG).
- b) Cooperating with the competent ministries in order to screen intersecting issues and material relating to the Federal Ministry of Health, Family and Youth, Federal Ministry of Justice, Federal Ministry of the Interior, Federal Ministry for European and International Affairs, (and the Federal Ministry of Social Affairs and Consumer Protection) and to elaborate measures aimed at the best-possible protection of children from child trafficking.

- c) Analysing the need for a specific law on adoptions of children from abroad, regulating placement and service by state-certified associations and banning Internet and third country placement of children.

Protection/shelter and care/support facilities

Continuation of the Working Group's relevant discussion with the aim of developing a concept for the systematic provision of care and support of children and adolescents who are victims of child trafficking in Austria. This involves a clear assignment of tasks and mechanisms for cooperation between government bodies and NGOs (the basis being the National Referral Mechanism, mentioned above) by including all relevant players' expertise.

Support programme

- a) Clear agreements on monitoring in the country of origin following the child's return
- b) Directives on adequate approaches and procedures in connection with returns prepared for the youth welfare authorities (including: determination of the child's best interests, voluntary nature, company, etc.).

Specific data collection

- a) External high-quality assessment of the situation in order to gain information on the structures in place for victims of child trafficking in the federal provinces. EU funding (Daphne project) should be sought.
- b) Regular monitoring of the development of the number of victims of child trafficking and their situation by improved data collection.
- c) Police statistics: Differentiation between victims of/people affected by human trafficking and victims of/people affected by human smuggling whenever such cases are reported to the police.
- d) Conviction statistics: Key data is to state that child trafficking was involved.
- e) Special nationwide youth welfare statistics: Victims of child trafficking/dependence because of smuggling as well as all intercountry adoptions are to be stated separately.